ANTI-PAPAL LEGISLATION IN MEDIEVAL ENGLAND

(1066-1377)

A Dissertation

SUBMITTED TO THE FACULTY OF PHILOSOPHY OF THE CATHOLIC UNIVERSITY OF AMERICA IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

BY

JOHN TRACY ELLIS, A.M.

WASHINGTON, D.C.

1930

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TO MY FATHER AND MOTHER

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PREFACE

It is the purpose of this essay to analyze the decrees and statutes passed by the English crown and parliament between the years 1066 and 1377 with the apparent object of curtailing the exercise of the temporal jurisdiction of the papacy in England. These political and economic measures have been interpreted by some historians as affording to King Henry VIII and the promoters of the Anglican Schism legal precedents for the Act of Supremacy in 1534.

That there is a close likeness between this medieval legislation and many of the acts passed by parliament in Henry VIII's reign, is undeniable. The problems involved in this similarity, while discussed in many secondary works, have been seldom fully analyzed. This essay therefore is offered to students of medieval English economic and ecclesiastical history with the hope that a clearer insight into what may be called the anti-papal legislation of medieval England will be an aid to a better comprehension of the spiritual cleavage forced upon the nation by the Tudor king.

The source material for this study is contained for the most part in the great printed collections of English laws, such as the *Statutes of the Realm,* the *Rotuli Parliamentorum,* and the *Concilia Magnae Britanniae et Hiberniae* of Wilkins, as well as the smaller collections printed in translation, such as the *Select Documents of English Constitutional History* by Adams and Stephens and *Documents Illustrative of English Church History* by Gee and Hardy. For the circumstances surrounding these laws much has been drawn from the accounts given in the contemporary chroniclers, which are contained in the main in the *Rolls Series.* Secondary works have of course also been employed for the political, social, and economic phases of the history of this period.

I wish to take this opportunity to acknowledge the debt of gratitude which I owe to Professor Peter Guilday, Ph. D. who first suggested the subject of this investigation to me, and under whose scholarly direction the work was completed. I also wish to thank Professor Nicholas A. Weber, S. M., S. T. D. of the Department

of History and Dr. Martin R. P. McGuire of the Department of Greek and Latin who so kindly read the work in manuscript and offered many valuable suggestions and corrections. My gratitude is due likewise to Miss Alice McShane, Assistant Librarian of the John K. Mullen of Denver Memorial Library, who has ever been kind and helpful in placing at my disposal all the materials for this study to be found in the University Library.

JOHN TRACY ELLIS

The Catholic University of America,
April 3rd, 1930.

INTRODUCTION

This study endeavors to show by a detailed examination of the anti-papal laws, decrees, and petitions passed in England between the Norman Conquest in 1066 and the death of King Edward III in 1377, that within this period there was placed upon the statute books of England most of the anti-papal legislation prior to the reign of Henry VIII. In other words a great deal of the anti-papal legislation which we ordinarily associate with Henry VIII was already a part of the English law and merely had to be put into active force by that monarch.

Thus when Henry VIII ascended the English throne in 1509 the pope was incapable, so far as the civil law went, of exercising any real temporal jurisdiction in the realm, and the exercise of his spiritual jurisdiction was seriously hampered. No papal legate was to be received or to exercise his functions, no appeals in disputed cases were to be made to the papal *Curia,* no communications by bishops and clerics might be held with the Holy See, and particularly no tithes, tributes, or taxes were to be collected in England for that See without the consent of the king. Moreover no provisions to vacant benefices in the English Church could be made by the pope, so far as the law of the land allowed, without the king's pleasure having been first solicited. The Constitutions of Clarendon, passed in 1164 by Henry II (1154-1189), and always held to be in force by the crown and its lawyers, along with the Statutes of Provisors and Praemunire enacted in the reign of Edward III (1327-1377), may be considered as so many stages in the curtailment of the exercise of papal prerogatives in England and conversely in the growth of the royal power.

In view of this fact therefore we shall endeavor to examine these anti-papal laws of the parliaments and decrees of the kings in the period closing with the death of Edward III, in order that we may trace out the gradual development of legal precedents for many of Henry's actions against the Holy See. Henry really had very little new legislation to pass against Rome when he decided upon making himself the supreme head of the Church of England.

Yet it should be stated at once that Henry's action in claiming for himself the spiritual headship of the English Church was never contemplated by any of his predecessors and had no precedent whatever in the previous English legislation.

The anti-papal movement was by no means confined to England. We find symptoms of it in France in the latter half of the thirteenth and the early fourteenth centuries. It came to a head in France in the great conflict between Pope Boniface VIII and King Philip the Fair at the end of the thirteenth and during the opening years of the fourteenth century. Out of the struggle engaged in between these two men there arose the residence of the French popes at Avignon, a factor which had much to do with the destruction of papal prestige in European affairs for centuries. The relations between the empire and the papacy were no less unfortunate during this period. In the latter part of the eleventh century there ensued the long and exhaustive conflict between the popes and the German emperors, which occupied the center of European politics for almost two hundred years. In both France and the empire, as well as in the lesser states of Europe, the spirit of nationalism was taking root in the thirteenth century, and with the consequent decline of the papal power and the increase of papal encroachments, this spirit of nationalism made itself evident in the actions which the strong absolute monarchs of Western Europe pursued against what they considered to be infringements upon the jurisdiction of their realms and subjects by Rome. England therefore was not alone in the efforts which she put forth to curtail the exercise of papal prerogatives within her borders.

There are few dates in the history of the human race which justify the marking off of any specific period. Nevertheless within the bounds of certain territories or nations we do find dates which are so very outstanding, because of the far-reaching effects of the events which they fix in time, that we are justified in believing these years do mark the beginning or closing of an epoch in the history of that nation. The autumn of 1066 is such a date in the history of England. With the defeat of Harold at Hastings in that year, England enters the family of Europe to which she is now united by a common governor with the Duchy of Normandy.

England will never again occupy quite the distinctly isolated position she held before the Conquest. Her court language now becomes French, the officials of her realm and the ecclesiastics of her Church are continentals, and her civilization and future history are to become inseparably linked and profoundly affected by all that takes place across the narrow channel which divides her from the mainland.[1] England becomes European, but not a nation. It was not until she had passed through some four hundred years of intermittent civil strife that she was to emerge, during the reign of Henry VII (1485-1509), as a strong, compact state with a stable government and an unswerving national consciousness.

This date, 1066, is also an epoch-making one in the history of the English Church. The Conquest brought the introduction of continental ecclesiastics into England, men thoroughly imbued with the spirit of the Cluniac Reform. They breathed new life into the English Church and gave it closer contact with all the salutary reforms which were prevalent upon the continent. In doing this the Norman ecclesiastics at the same time strengthened the bonds of union between the English Catholics and Rome. Likewise with William the Conqueror there begins that series of enactments against the papacy which we are to follow and trace through the years to Edward III's death when it may be said to have passed its original state, for the anti-papal measures which followed this period were, to a great degree, repetitions of what had gone before.

From the landing of William to the death of Edward III, there continued the gradual enactment of law upon law in the statute books of the realm, the spirit of which was inimical to the interests of the papacy. The slowly rising nationalism of English kings, anxious, as it would seem, to break the restraint which the papacy placed upon the royal jurisdiction in England, showed itself most prominently during this span of three hundred years.

The close of this period witnesses a number of important events which have a direct bearing upon our narrative. In 1375 an agreement was reached between King Edward III and Pope Gregory XI on most of the disputed questions, particularly the subject of papal

[1] Cf. Belloc, H., *A History of England*, II, Introductory Chapter, 3-68, New York, 1927, for a convenient summary of the social, economic, and religious factors following the Norman Conquest of Britain.

provisions, which had troubled their mutual relations; in January, 1377 Gregory XI moved back to Rome thereby ending the long exile of the papacy of Avignon, a factor which had played no small part in England's attitude toward the Holy See during the course of the fourteenth century; in June, 1377, Edward III died, followed in the spring of 1376 by the death of Gregory XI. With the death of these two principals the history of the conflict between the papacy and England enters a new phase. Upon Gregory's passing there ensues the Great Western Schism, which was destined to split the unity of Christendom for many years and to weaken the prestige of the papacy for centuries. The effect of this catastrophe made itself felt in England where a spirit of distrust and defiance to the papal power was evident. It was not until almost twenty years after Edward's death that we note any serious renewal of anti-papal laws. It was in the closing years of Richard II's reign (1377-1399), in the last decade of the fourteenth century that the second series of the Statutes of Provisors and Praemunire was enacted.

It is because of these reasons that we have chosen the dates given for our treatment of the subject: the year 1066, because it was with William I that the anti-papal movement may be said to have begun, and the year 1377, because with the death of Edward III the principal laws aimed against papal jurisdiction in England had been passed, and the movement had become a reality.

ANTI-PAPAL LEGISLATION IN MEDIEVAL ENGLAND (1066-1377)

CHAPTER I

The Norman Conquest

With the coronation of William I (1066-1087) as king of England on Christmas Day, 1066, in Westminster Cathedral, England arrived at a new phase of her national existence. Previous to this date the island kingdom had presented a sad picture of civil strife, foreign invasion, and internecine struggle.[1] At no time did the somewhat nominal overlord of Wessex pretend to be king of all England. And if he did aspire to that honor with Alfred (871-900) his peace was so disturbed and his rule so harassed by the invasions of the powerful Danes who pillaged his kingdom, that he lacked the strength to warrant his assuming such a rôle. But with the Conqueror all this anarchy gradually came to an end. William was not able to put down the troublesome English noblemen like Morcar and Edwin in a day, nor was he able to extinguish immediately the spirit of revolt which was latent in his half-brother, Bishop Odo of Bayeux, and his friend, William Fitzosbern. The excesses of these two nobles, whom William had left in charge of England while he went to Normandy during the Lent of 1067, drove the English into revolt, and it was only with the return of William in 1068 that the west was thoroughly conquered and the north partially subdued. The next year witnessed the real conquest, for it was during those months that William secured his first strong grip upon England.[2] There were minor revolts during

[1] Freeman, E. A., *The History of the Norman Conquest of England, its Causes and its Results*, Oxford, 1873. Vols. I and II give a detailed account of the various phases of pre-Norman history in England.

[2] Cf. *ibid.*, IV, 82-213, for a discussion of the conquest of the west and north.

the rest of his reign, but they never threatened to usurp his power in any permanent fashion.[3]

The Conqueror found the English Church in about as deplorable a condition as he did the state.[4] Cut off from Western Europe by its peculiar location, and subject to almost constant invasions from the north, the effects of the great Cluniac Reform of the previous decade, centering about the personality of the illustrious Hildebrand, had not reached England before the coming of the Normans.[5] Consequently, William did not find the English hierarchy and lower clergy influenced by the results of the Cluniac Reform. The old diseases of slackness in discipline, invasion of church rights and church property, concubinage and marriage amongst the secular clergy, were rampant in those days of countless local hereditary rulers, isolation and corruption of separate districts, and no central authority. The relations between England and Europe had never been intimate, in fact they did not exist except for the connection between the English Church and Rome. And the period immediately preceding the Conquest seemed the least likely in which England might establish closer contact with the great movements, culture, and civilization of continental Europe.

Therefore William's first move in regard to the Church was to replace the English bishops, abbots, and other high clerics with Norman ecclesiastics. This was done for a twofold reason: first, in order to bring the English Church into line with the salutary effects of the Cluniac Reform, which William had witnessed in his Duchy of Normandy, and secondly through necessity. If he was to have peace and harmony in his new realm he could not possibly expect to accomplish these ends with a hostile clergy, in an age when a bishop was more than the spiritual ruler of a diocese, and an abbot was something other than the superior of a religious

[3] Cf. *ibid.*, IV, 214 ff., for a treatment of the local revolts.

[4] Lingard, J., *The History and Antiquities of the Anglo-Saxon Church*, London, 1858. Cf. II, Chaps. XII and XIII for description of the condition of the monasteries, clergy, devastation of churches by the Danes, reform of St. Dunstan, and final condition of the Anglo-Saxon Church just before the Conquest.

[5] Adams, G. B., *The History of England from the Norman Conquest to the Death of John, 1066-1216*, 39. New York, 1905.

community. They were great landowners, possessing as much land and as many serfs as their neighbors, the lay barons.[6] We find an example of this double character of the high ecclesiastics in the case of the imprisonment of Odo, bishop of Bayeux, in 1082. When Odo objected to William imprisoning him, an ecclesiastic, the Conqueror made answer that he had not confined the bishop of Bayeux but the earl of Kent.[7] Hence this position of the bishops and abbots made them extremely important factors in the general composition of the state, its administration, and its support.

William had sent to the pope for legates to aid him in the work of adjusting the administrative side of Church affairs. The Pontiff, Alexander II, (1061-1073) gladly sent the king three legates;[8] and after holding councils and inquiring into the status of Stigand, archbishop of Canterbury, that cleric was deposed in 1070.[9] His position had been irregular from the first, for he had been guilty of being elevated by the political faction of Godwin following the expulsion of the rightful archbishop, and also of holding two sees at one time, Winchester and Canterbury, which made him guilty of pluralism. The man chosen to succeed him was Lanfranc (1070-1089), the abbot of Caen, one of the most distinguished churchmen of the North, and a man who proved himself worthy of the trust which William placed in him. He was energetic, progressive, and above reproach in his life as a prelate. In 1072, upon his return from Rome, Lanfranc presided over the Council of Windsor at which it was decided that York was subordinate to Canterbury.[10] Three years later at the Council of London he promulgated canons

[6] Cf. Round, J. H., *Feudal England*, London, 1895, 225-314, for account of holdings of English clerics from the king, their military obligations, etc. Cf. also article, "The Ecclesiastical Tenants-in-Chief and Writs of Military Summons", by Helena M. Chew in *English Historical Review*, XLI (1926), 161-169.

[7] Lingard, J.-Belloc, H., *The History of England*, I, 497. New York, 1912.

[8] Migne, J. P., *Patrologia Latina*. Vol. 150 on Lanfranc, Caput VI, col. 40-43. Paris, 1844-1905.

[9] Wilkins, D., *Concilia Magnae Britanniae et Hiberniae*, I, 322-323 London, 1737.

[10] William of Malmesbury, *De Gestis Regum Anglorum*, II, 346-354, Rolls Series, London, 1887-1889.

of reform for the English Church.[11] Again in the spring of 1076 the archbishop headed a council at Winchester where efforts of reform of the clergy were vigorously pressed. All clerical marriages for the future were forbidden, though priests who were married were exempt from dismissing their wives.[12] The archbishop was but carrying out the reforms so strongly upheld by Pope Gregory VII throughout his pontificate. Already the advent of the Norman ecclesiastics was beginning to bear fruit in England.

This transference of Lanfranc from Caen to Canterbury is illustrative of the changes made by William in the general body of the English hierarchy. While the changes were more or less general it must not be imagined that the Conqueror's policy of ecclesiastical plantation was essentially peculiar. It was not at all unusual at this time to find foreign bishops presiding over dioceses in the various countries of Europe. The church was universal and international, and was so accepted by the peoples of Western Europe in this period before the rise of the national states as such. To be sure the majority of bishops were chosen from amongst the native clergy but exceptions to this practice did not shock or cause grave resentment.[13] Despite the general change of personnel of the English hierarchy certain of the native bishops and abbots were allowed to retain their offices, notably the pious Wulfstan, bishop of Worcester, and Ingulph, who had been given the great monastery of Croyland.

It is necessary to take note of one other reform brought about in the Church by the Conqueror before passing on to the relations which existed between himself and the papacy. This was the separation of the lay and ecclesiastical courts.[14] For some time the bishops of all the other countries on the continent had given judgment in their own courts, and this measure introduced by William, was but one more effort to bring the government of the

[11] Wilkins, *op. cit.*, I, 363 ff.

[12] Freeman, *op. cit.*, IV, 286-289.

[13] Stephens, W., cf. Appendix II of *A History of the English Church from 1066-1272*, London 1901, for a table showing how systematically William carried out his policy of ecclesiastical replacement.

[14] Stubbs, W., *Select Charters and Other Illustrations of English Constitutional History*, 85. Oxford, 1895.

English Church into conformity with the ecclesiastical government on the continent.[15] William acted in this instance with the advice of his archbishops, bishops, and other clerics, as well as with that of the lay barons in the common council. He prescribed that all those summoned according to episcopal laws for any fault should come to the bishop's court and answer to him in accordance with the canons and episcopal laws. He also named the punishments to be meted out to those who refused a third summons to the bishop's court. The first punishment was to be excommunication and then force was to be used upon the individual by the king's sheriff, with a fine to be paid for every summons. Furthermore William forbade all sheriffs and bailiffs to meddle in any way with the affairs of the bishop or the laws which concerned his court. After effecting this separation the Conqueror enacted such laws as were necessary to uphold the jurisdiction of the ecclesiastical tribunals, but at the same time he forbade those courts to implead or excommunicate any individual who held in chief of the crown until the nature of the offence had been certified to the king himself. It may be safely said that William acted in perfect good faith in enacting this measure, although some evil consequences came of it later. The Conqueror was motivated in this act of separation by a desire to bring the discipline of the English Church into harmony with the churches on the continent, although selfish motives have been ascribed to the policies of William's ecclesiastical and lay barons for their influence over the king in enacting the measure.[16]

Regardless of the motives of the particular groups supporting this act, one thing is certain, and that is it did lead to endless

[15] Concerning the date of this act see discussion of possible dates in article, "The Date of the Conqueror's Ordinance separating the Ecclesiastical and Lay Courts", by Curtis H. Walker in *English Historical Review*, XXXIX (1924), 399 ff. He fixes the date of the ordinance at some time between 1072 and 1076.

[16] "By some writers this innovation has been attributed to the policy of the clergy, who sought by the establishment of separate tribunals to render themselves independent of the secular power; by others to that of the barons, whose object it was to remove from the civil courts the only order of men who dared to oppose a barrier to their rapacity and injustice. Perhaps the true cause may be found in the law itself, which

confusion during the later Middle Ages.[17] Although a spiritual case by a spiritual person, or a secular case by a secular person was clear cut, the confusion enters when spiritual offences are committed by secular persons and vice versa, secular offences by spiritual persons. The king must hang murderers, but the Church would not take drastic action of this kind against a priest so accused, nor did she feel justified in allowing the secular arm to do so. Consequently it resulted in many disputes and much legislation being passed to clear the issues.

In considering the relations of William the Conqueror with the papacy, it is necessary for us to look to the continent in order to learn what was transpiring in Europe immediately preceding and during the Conqueror's English reign. The latter half of the eleventh century saw a determined effort on the part of the popes to rid the administration of Church affairs of the interference of secular princes. Pope Leo IX (1049-1054) was the first of the sovereign pontiffs of this period to show clearly how the pope might aspire to rule emperors and kings, and actually make the papacy the overlord of Europe. Shortly after his accession to the papal throne Leo demonstrated his resoluteness of purpose in this regard by enacting, through a decree of the Synod of Rheims, that for the future no candidate for the office of bishop should receive episcopal consecration who had not been elected first by the clergy and people. He made it very plain that he felt entirely independent of Emperor Henry III (1039-1056), the man who had been most instrumental in placing him in his present high position.[18] Pope Nicholas II (1058-1061) in April, 1059 took the election of the popes out of the hands of the German emperors and secular au-

merely seeks to enforce the observance of the canons, and to assimilate the discipline of the English to that of the foreign churches, by taking from laymen the cognizance of causes relating to the cure of souls." Lingard–Belloc, *op. cit.*, I, 488.

[17] Cf. the case of Philip de Brois, 28 of this study. Cf. also Capes, W. W., *A History of the English Church in the Fourteenth and Fifteenth Centuries*, 5. London, 1900. Cf. Gabel, Leona C., *Benefit of Clergy in England in the Later Middle Ages*, 10-17, Northampton, 1929, for discussion of the Conqueror's ordinance.

[18] Mansi, J. D., *Sacrorum Conciliorum*, XIX, 741-742. Florence, 1759-1798. Cf. also *Cambridge Medieval History*, VI, 641-642, New York, 1929.

thorities, and instituted the college of cardinals for that purpose,[19] which left the emperor and the other princes with very little immediate influence in the filling of that office. The reason for this act of Nicholas II can be found in the frightful confusion which frequently attended a papal election in which the emperor and the rival factions of the Roman nobility had a voice. The example of the shameful election of the anti-pope, Benedict X, in April, 1058, which was brought about by the nobility of Rome and which resulted in trouble and misfortune for all, was fresh in the mind of Pope Nicholas.[20]

However, the efforts to free the government of the Church from secular influence made by these popes was not to go unchallenged. Upon the accession of Pope Gregory VII (1073-1085), with his exalted ideals of reform and his determination to cleanse the Church of her political and simonaical abuses and corruption, we see the beginning of that long conflict between the popes and the emperors which was to culminate in the complete subjection of the latter, but only after a struggle which stretched over almost two hundred years, and which left both parties well nigh exhausted.[21]

Gregory's great adversary was the Emperor Henry IV (1065-1106). It is unnecessary for us to enter into the details of the conflict. It arose over the determination of Gregory, issued in a strong prohibition in 1075, to end lay investitures.[22] The action of Gregory in sending legates to Henry, the highhanded response

[19] Reich, E., *Select Documents Illustrating Mediaeval and Modern History*, 153-156. London, 1905. Cf. *Cambridge Medieval History*, V, 35-38. Cf. also Carlyle, R., and Carlyle, A., *A History of Mediaeval Political Theory in the West*, IV, 11-24. New York, 1922.

[20] Mann, H. K., *The Lives of the Popes in the Middle Ages*, VI, 226-228. St. Louis, 1910.

[21] Cf. Carlyle–Carlyle, *op. cit.*, IV, 165-306, for detailed account of the actions of Gregory VII in advancing the papal claims to superiority over the empire.

[22] Reich, *op. cit.*, 158-160, contain the *Dictatus Papae*, the summary of the Gregorian reform policy. Cf. 160-161 for other laws against investitures passed by Gregory in November, 1078 and March, 1080. Cf. also *Cambridge Medieval History*, V, 51-166, for account of this conflict. Cf. Carlyle–Carlyle, *op. cit.*, IV, 66-80.

of the emperor, who was angered by the language which the legates employed, his excommunication and deposition, his submission at Canossa in 1077, his second excommunication and final triumph over the aged Gregory, when he was joined by his German nobles and clergy following the second excommunication—all these are well known facts to the student of history.[23] The point to be made in connection with this study is the part being played by the Conqueror in England during these eventful years.

From the very outset William's relations with the Holy See were cordial. He had appealed to Rome for approval of his invasion of England, promising Pope Alexander II that if he received the papal sanction to his venture, he would bring the English Church and clergy into closer submission to the Roman See.[24] Therefore Alexander, being moved by this promise of William, as also by the wish expressed by Edward the Confessor (1043-1066) before his death that William should succeed him, encouraged William in his expedition and blessed his cause.[25] As we have already seen William had early sent for the pope's legates to help him reform the administration of the English Church and the pope had graciously consented. Alexander gave outward expression to the spirit of good will which characterized the negotiations between the two rulers in a letter which he wrote to the Conqueror, praising him for his great faith and the devotion he had manifested in the cause of religion in England, as well as the support he had given to the efforts of Lanfranc.[26]

However, William was not long established in England before he made it very clear that he was to be the complete master of the new kingdom. In a letter to Pope Gregory, sent some time during the year 1076-1077, the exact date of which is doubtful, the Conqueror expressed his refusal to do homage to Gregory or his successors for the kingdom of England because, as he said, he had never promised it and his predecessors had never done homage to

[23] Thatcher, O., and McNeal, E., (Eds.), *A Source Book for Mediaeval History*, New York, 1905. The principal letters are printed in translation here concerning this controversy, 146-160, Documents Nos. 74-81.

[24] Malmesbury, *op. cit.*, II, 299.

[25] Mann, *op. cit.*, VI, 331.

[26] Wilkins, *op. cit.*, I, 326.

Gregory's predecessors.[27] The pope, so it would seem, since we have no document containing Gregory's request, had made his demand on the strength of the superiority of the spiritual over the temporal power. As the spiritual overlord of all feudal dependencies the pope claimed fealty, since he was to represent these dependencies before the judgment seat of God.[28] In this instance the pope was not making demands upon England alone, for we find him receiving an oath of fealty and homage from Robert of Normandy in June, 1080 for the lands which that prince held of the papacy. He also made similar claims to Spain, Corsica, and Sardinia on the basis of the Donation of Constantine, and to Hungary because of King Stephen's act of homage to the papacy for his kingdom.[29] William therefore by his refusal to do homage to Hildebrand was creating a precedent for independent action upon the part of future English kings. We shall see that this precedent was not the only one set by William in shaping the English policy toward Rome.

Besides laying down this declaration of independent action from Rome, the Conqueror had no small share in putting into operation the machinery by which that declaration might be rendered effective. He made it understood that he would not allow any pope to be recognized in England without his consent; no papal bulls or letters were to enter the country without the royal permission; no council was to enact a canon or forbid anything, or no bishop or ecclesiastic was to excommunicate any of his barons without having first ascertained the Conqueror's pleasure in the matter.[30] These and many other minor details William reserved entirely to himself. Gregory complained of these bold assertions of William, but he did not take action against them.[31] He even allowed William to select ecclesiastics of his own choice to fill the high church offices in England.[32] Gregory therefore did not challenge the Con-

[27] Brooke, Z. N., "Pope Gregory VII's Demand for Fealty from William the Conqueror", in *English Historical Review*, XXVI (1911), 225-238.

[28] *Ibid.*, 237.

[29] Cf. Carlyle–Carlyle, *op. cit.*, IV, 298-306, for a discussion of Gregory's demands for fealty upon the continent.

[30] Stubbs, *op. cit.*, 82.

[31] Wilkins, *op. cit.*, I, 93.

[32] "It is not without interest to speculate what would have happened

queror on any of the assumed powers of that ruler, a fact which will bear further explanation.

The reason for this leniency is undoubtedly to be found in this fact. Pope Gregory was engaged in possibly the greatest struggle in the history of the papacy up to that time with the emperor over the question of investitures. He needed the good will and support of the English king, and therefore it would have been pure folly for him to insist upon William obeying these various strictures. Moreover William and Archbishop Lanfranc were not slow to realize their advantage. When the anti-pope, Clement, was elected in 1080 at Brixen it gave Lanfranc and the Conqueror a weapon with which to threaten Gregory, should the pontiff push his claims too far in England. Lanfranc did not recognize Clement, though he inferred that he might do so, which held Gregory in check for fear of losing England's support. His position was extremely dangerous, for at this time the Emperor Henry was marching upon Rome. Lanfranc proved the diplomat by withholding his support from Clement, but at the same time hinting at the possibility of recognition.[33] The archbishop was in this instance more the diplomat than the loyal son of the Holy See, for he was in sympathy with the Conqueror, who was anxious lest the papacy secure too much liberty in the direction of the affairs of the English Church.

Confronted by this opposition from William and Lanfranc and imperiled by the force of the imperial power, Gregory was not able to press his demands upon the English monarch. And although this question of the investitures, the receiving of papal bulls and legates certainly did play an important part in the life of the Church, Rome was able nevertheless to draw the fine distinction between these questions and matters which would touch her spiritual existence, the heritage of which she must guard uncompromisingly. William was strong, the papacy was trembling in the balance for its life as a power in the affairs of Europe, hence there was but one thing to do and that was to temporize.

if St. Gregory VII had challenged the Conqueror on the point of investitures. He did not do so. He even made a special temporary exception, giving privilege to the Conqueror to appoint the higher clergy. He let the thing bide its time. But his successor pressed it upon the Conqueror's son." Belloc, H., *A History of England,* II, 99.

[33] Migne, *op. cit.,* Vol. 150, Ep. 59.

This she did. But the dangerous precedent set by this great liberty and freedom given to the Conqueror in England was to have its effect in the years to come. The Conqueror's successors, especially his two sons, looked back with longing glances at the unrestrained freedom allowed him in the affairs of the Church, and it was not so many years before they were claiming this prerogative of freedom, sometimes to their sorrow. William I was a conscientious ruler and a devout son of the faith, who possessed a deep reverence for the sovereign pontiff. A number of his successors regarded the faith but lightly and considered the papacy only as an object for their greed. The Holy See was to suffer at their hands for the dangerous leniency with which it treated the Conqueror.

Aside from quelling the revolt in Normandy begun by Robert, William's son, in 1078, aided as he was by many Norman barons, the defeat of Robert at Gerberci in 1079, and the enforcing of the feudal principles upon his half-brother, Bishop Odo, the earl of Kent, in 1082, there is little to record in the remaining years of the Conqueror's reign, but the great survey of the kingdom which he ordered and which resulted in the Domesday Book. This survey was commanded by William at Christmas, 1085 in order that he might ascertain the financial and military strength of his realm. The goods of the clerical barons were subjected to the scrutiny of the survey as well as those of the lay lords.[34]

[34] "Then at midwinter the king was at Glouchester with his witan, and there held his court five days; and afterwards the archbishop and clergy had a synod three days. There were Maurice chosen Bishop of London, and William to Norfolk and Robert to Cheshire. They were all the king's clerks. After this the king had a great council, and very deep speech with his witan about this land, how it was peopled, or by what men; then sent his men over all England, into every shire, and caused to be ascertained how many hundred hides were in the shire, or what land the king himself had, and cattle within the land, or what dues he ought to have, in twelve months, from the shire. Also he caused to be written how much land his archbishops had, and his suffragan bishops and his abbots and his earls; and—though I may narrate somewhat prolixly—what or how much each man had who was a holder of land in England, in land or in cattle, and how much money it might be worth." *The Anglo-Saxon Chronicle*, II, 186, trans. by B. Thorpe, Rolls Series, London, 1861.

In September of 1087 the Conqueror was on the continent pursuing a war against the French king for the possession of the Vexin, a small province lying on the borderland between France and Normandy. While here he met with an accident which resulted in his death. On his deathbed he dictated his choice of successor as William, his favorite son.

The effects of the conquest of England by the Normans were far-reaching, and were not to manifest themselves entirely for many years to come. In the sphere of foreign relations it increased intercourse between the continent and England in trade, diplomacy, and travel. English soldiers engaged in warfare upon the continent, and English ecclesiastics were called to fill positions in continental churches and schools. In government it greatly strengthened the royal power by retention of the old English privileges and the addition of feudal rights, though the changes made were not essentially new and the Conqueror retained the Anglo-Saxon laws and institutions. The king could now command national resources as king, and military service of his vassals as feudal lord. Feudal ideas also reacted on the crown, which became a right of inheritance and not of election. In language we see a gradual loss of English inflexions and a large addition of French words. The English and French exist side by side for a long time, the former the language of the people, the latter of the court. When English again came into general use it had undergone a profound transformation due to this fusion with the French.[35]

But it is in the affairs of the Church that we are most interested. The Conquest witnessed the increase of papal influence within the Church itself under Hildebrand. Likewise a closer union of Church and state in England became evident with the liberty and freedom granted to the Conqueror in administering the appointments to benefices, etc. The establishment of the ecclesiastical courts and their separation from the legislative assemblies by William contributed to the power of the papacy in England and produced a great effect upon later legislation. Lastly there was the great reform in the discipline of the clergy which came into Eng-

[35] Cf. Freeman, *op. cit.*, V, 224 ff. for a discussion of the effects of the Conquest on English art, legislation, politics, the Church, etc. Cf. also Lunt, W. E., *History of England*, 83-100, New York, 1928.

land following the Conquest, and which William encouraged in order to bring the English Church into closer harmony with the churches on the continent which had felt the effects of the reform movement.[36]

The England left by the Conqueror upon his death to his son and successor, William II (1087-1100), was a kingdom much more unified and compact than he had found it in 1066. Aside from a revolt in 1088 led by Odo, the king's uncle, who rose in support of Robert of Normandy, the singing of the Treaty of Caen in 1091, by which William II and Robert agreed that whoever should die first his successor should inherit both kingdoms, the pledging of Normandy by Robert to William when he was about to start on the crusade in 1096, and another desultory war with France in 1098 over the possession of Le Maine, little of political interest took place during this reign. The chief feature of these years was the struggle between William and Anselm, the archbishop of Canterbury.

By the year 1089, the year of Lanfranc's death, the effects of the great Gregorian Reform had begun to exercise a permanent benefit in England. The introduction of the continentals from France and Normandy had brought into England the spirit of the movement which had taken such firm root in Europe, and it was inevitable that the results of that movement, which had so nearly changed the face of a continent before it came to an end, should now manifest its influence in Britain. Clerical celibacy began to be enforced, episcopal sees were moved from small villages to great centers of population, the life of the monasteries was made more regular, and schools were opened in large numbers. The whole moral temper of the lower clergy was likewise elevated.[37]

There was at the court of William II a counselor of the king, Ranulf Flambard, a man wholly perverted by a greed for money and dead to the effects of the reform.[38] It was at the promptings

[36] Adams, *op. cit.*, 38 ff. Cf. also *Cambridge Medieval History*, V, 481-520 for a good summary of the Conquest and its results. Cf. *ibid.*, V, 1-50 for discussion of the reform movement in the Church before Gregory VII.

[37] Adams, *op. cit.*, 38-51.

[38] Cf. T. Forester's trans. of Ordericus Vitalis, *The Ecclesiastical History*

of this person that William left the see of Canterbury vacant for four years following the death of Lanfranc.[39] The death of Archbishop Lanfranc had removed the saving restraint placed upon the actions of the king. At last in 1093 William being struck with a strange disease, the nature of which caused the king to fear for his recovery, he consented to have the see filled. The man chosen to head the English hierarchy was Anselm (1093-1109), abbot of Bec. Anselm was born about 1033 and had been connected with the abbey of Bec since 1060, having been its abbot since 1078. As abbot he had occasion to visit England a number of times. During these visits he had won the esteem and respect of all who met him. He was not only a highly spiritual man, but also one of the greatest of medieval Christian philosophers. Anselm enjoyed a wide reputation for scholarship and learning. It was at a time when Anselm happened to be in England on business for his monastery that the king was persuaded to name him archbishop of Canterbury. It was only after a struggle, however, that the abbot could be prevailed upon to accept the grave responsibilities of this office. It was not at all to his liking.[40] It may be that Anselm foresaw the difficulties which it involved. But there seemed to be no other man quite so suited to fulfill the duties of the archbishopric. There was very little doubt but that this appointment would result in conflict, for the king and the archbishop-elect differed widely in their interpretations of Church government, discipline, and reform.

After seven months of hesitation Anselm at length was invested with all the marks of his office by William, and received the archiepiscopal consecration in December, 1093. Already the liberty granted to the Conqueror was beginning to bear fruit. His son, a far lesser man, had kept the see vacant four years because he claimed he enjoyed the same right as had been given to his father to fill the episcopal sees at his discretion.[41] He invested the new archbishop with the ring and the staff, the emblems of his spiritual

of England and Normandy, Book X, Chap. 8, London, 1853, for an account of Flambard and his avarice.

[39] Eadmer, *Historia Novorum in Anglia*, 26-27. Rolls Series, London, 1884.

[40] *Ibid.*, 32-41.

[41] Mann, *op. cit.*, VII, 325-326.

jurisdiction, because his father had been allowed to do likewise. We shall see how the Church was compelled to pursue a very different policy toward this monarch in order to preserve the dignity of her position in England.

The fundamental differences in character between the archbishop and the king soon brought them into conflict. Trouble arose between them over the wish of Anselm to go to Rome for the *pallium,* as was the custom of the time. The king at first refused permission for this journey, claiming that he had not yet recognized Pope Urban II (1088-1099) himself, and hence would not allow one of his subjects to do so without his consent. He complained too at the customary gift offered to him by Anselm upon the latter's promotion. Anselm had presented the king with five hundred pounds which William refused as unworthy of the royal acceptance.[42] William also threatened to recognize the anti-pope, Clement, the puppet of the German emperor, knowing, however, that Clement had no lawful right to the papacy. Again he was putting into practice a privilege reserved by his father, that of allowing a pope to be recognized in England only with his consent.[43] But Anselm met every attack with vigor and defended with heroic courage the principle that the Universal Church could not suffer the restrictions of a particular ruler in a particular province. The archbishop also stood out against William refusing to recognize papal legates in England without his assent having been given to their mission, and his forbidding Church councils to be held without his approval.[44]

Meanwhile William saw that his methods of coercion were not netting him any advantage in his controversy with the archbishop, and therefore thinking to outwit Anselm he sent messengers to Rome offering a bargain. William would recognize Urban if Urban would depose Anselm.[45] The pope agreed to send a legate to adjust the difficulties, but when the legate arrived in England he went directly to the king, obtained recognition of Urban throughout the

[42] *Ibid.*, 326.

[43] Stubbs, *op. cit.*, 82.

[44] Hart, R., *Ecclesiastical Records of England, Ireland, and Scotland to the Reformation,* 13. Cambridge, 1846.

[45] Mann, *op. cit.*, VII, 327.

realm, and then refused to depose the archbishop.[46] It was a clever move on the part of the papacy. The Holy See had brought William's envoys to Rome, asking for help—something the Conqueror would not have done—and then acquiescing to their request it had settled the difficulty in its own favor but refused to do the king's bidding and remove Anselm. Rome had won in the first stage of that long struggle between the Church and the English kings. The papacy was rising in power; so was England but not quite so rapidly.

Departing a moment from the struggle we have been witnessing, it would be well to take cognizance of a typical act on the part of William, which illustrates the hardships and abuses with which Anselm had to contend. In 1095 we find the king applying feudal principles to the Church, taking back into his hands the property of that institution upon the death of a bishop so that he might benefit by its revenues. The danger of such measures to the ultimate peace and prosperity of the Church may well be appreciated when we consider the great holdings of the ecclesiastical order, and the peril which would threaten the possessions of the Church if this principle were universally applied.[47] It is an example of the greed practiced by this king in all his dealings with the Church. The possessions of the Church offered William an opportunity to enrich his coffers, a chance which he did not neglect.

The act of the king mentioned above is an instance of a particular piece of legislation which applied to the diocese of Worcester, but we shall find a decree issued by William II, the date of which is not known exactly, but which was issued around 1097, the content of which was far more general and embracing in its restrictions. It reiterated the stand taken by the Conqueror, that no one be allowed to acknowledge the pope without his bidding, or receive a letter

[46] Eadmer, *op. cit.*, 69.

[47] "William, King of the English, to all the French and English who occupy freeholds from the bishopric of Worcester, greeting. Know ye that since the bishop has died, the honor has returned into my possession. Now I will that you should give me from your lands such relief as I have arranged (assessed) through my barons. Hugh deLacy, twenty pounds; Walter Punher, twenty pounds; . . . Chipping, twenty shillings. . . ." Heming, *Chartularium*, I, 79-80 (Ed. Hearne), 1723, cited by Round, *op. cit.*, 309.

from him until the king himself had seen it. This decree likewise forbade the primate, the archbishop of Canterbury, from presiding in councils to ordain or forbid anything save that which had been ordained by the king or was agreeable to him. Furthermore it forbade any bishop to sue publicly or excommunicate or constrain by penalty of ecclesiastical rigor, any of the king's barons or ministers accused of capital crimes, without the monarch's permission.[48] This act merely assumed the stand taken by the Conqueror when he made it evident to the pope that he was the sole master of England. Again precedent was playing an important rôle in the relations between England and Rome.

In the face of such abuses and boldness on the part of the king, his own personal vices, and the corruption of the secular clergy, Anselm was led to appeal in 1097 for permission to go to Rome and plead for papal action against the degeneration of religious discipline and Church government in England.[49] As might be expected William refused the request, ignoring the letters of Anselm. However, the great archbishop was not daunted, making a second and third request, and finally informing William that he would act with or without his permission.[50] At last William gave way before the courage and strength of the primate, realizing no doubt that he could not hope to swerve the archbishop from his sense of duty. William and Anselm parted company in the middle of October, 1097 never to meet again.

Anselm proceeded to Rome and later played an important part in the proceedings of the Council of Bari.[51] William seized the goods and revenues of Canterbury in the occupant's absence, and made off for Normandy to wage another war upon France for the Vexin. Very little of interest transpires in the intervening period between Anselm's departure and the king's death. In August, 1100, King William suffered an accident while hunting, the effect of which brought the monarch to an untimely death. It was left

[48] Gee, H., and Hardy, W. J., *Documents Illustrative of English Church History*, 58. London, 1914.

[49] Eadmer, *op. cit.*, 79-81.

[50] *Ibid.*, 81.

[51] Baronius, C., *Annales Ecclesiastici*, XVIII, 42 ff., Bar-le-Duc, 1869.

for Henry I (1100-1135), his younger brother, to continue the quarrel with Anselm.

Henry I came to rule England in August, 1100. He was a young, gallant, intelligent, and industrious prince with promising capacities for kingship. All seemed in his favor. One of the first moves of the new king was the imprisonment of Flambard, the sycophant whom his brother had made the justiciar and bishop of Durham. He then recalled Anselm. He had sent a very friendly letter to the archbishop, explaining why it was necessary for him to be crowned before Anselm reached England on account of internal disorders, promising all friendliness, money to convey him home, and every possible consideration. This letter reveals the fact that Henry was anxious to show the archbishop and the pope that he was well disposed toward a peaceable settlement of their differences.[52]

The issuance of his Charter of Liberties in the week following his coronation seemed to substantiate the sincerity of Henry, for in that document—the first written record of feudal monarchy in England, its limits and its dues—Henry promised to make the Church free, neither to sell nor place at rent, nor, when any ecclesiastic should die, to take anything from the domain of the Church or from its men until a successor had been installed.[53] All these pretty promises met their test, however, when Anselm confronted Henry shortly after Michaelmas, 1101 at Salisbury. Again the great issue arose—investitures. Henry asked Anselm to accept the archbishopric from him and to do homage for it.[54] The king was anxious lest the privilege of investiture of bishops, enjoyed by his father and brother, should slip from his hands and thereby weaken his control over the English Church. The archbishop refused the request of the king, for during his exile on the continent his ideas on the disputed question had been crystallized by attendance at the councils where the principle of canonical elections to Church offices by churchmen had been firmly stated and reaffirmed.[55]

[52] Stubbs, *op. cit.*, 102. [53] *Ibid.*, 100. [54] Eadmer, *op. cit.*, 120.
[55] Hefele–Leclerq, *Histoire des Conciles*, V, Pt. I, 457 ff. Paris, 1912.

We must endeavor to see the principles involved in this conflict in the light of both parties. Though Europe had witnessed in Henry's lifetime the gigantic struggle between the papacy and the empire over this question of investitures, Henry was not without precedent for his determined stand in England. The process of lay investiture had taken deep root in the Church life of Britain during almost two hundred years preceding Henry's reign. It was part of the Anglo-Saxon practice of filling Church offices. It had thus far gone practically unmolested. As we have noted the zeal of Pope Gregory was stirred to uproot this interference with Church government. But despite this zeal Gregory had granted special exceptions to William the Conqueror. His successors, William II and Henry I, sensed the value of these exceptions. On the other hand the Universal Church had now risen to put down this abuse and to restore the government of its offices into its own hands. Anselm was the personification of this spirit of reform in England. Churchmen such as the archbishop felt that the civil authority's interference with the composition of the hierarchy could only make for an ultimate loss of the faith and the mismanagement of Church affairs. It was then an extremely vexacious problem, fraught with many difficulties and bound by traditions of long standing on both sides.

Therefore we find the tradition of years behind Henry, and particularly the recent papal toleration of freedom in Church matters shown towards his father. What feudal king would feel obligated to relinquish this power tolerated in his predecessor not forty years before? The king needed revenue, and if the clergy were suddenly freed from secular bonds bankruptcy of the realm might result, for the clerical party owned a large share of the kingdom's lands. The same was true of the recruiting of military power, for the great bishops and abbots furnished many soldiers for the army of the king. Hence we see Henry caught between the all-embracing sweep of the restoration of the Church's freedom, which was carrying all Europe with it, and the peculiar situation of his own kingdom, which required the financial and military aid of its ecclesiastical barons in order to preserve its life. Henry decided to beg for time, and called a truce of nine months until the spring of 1101.[56]

[56] Eadmer, *op. cit.*, 120.

Meanwhile the king had to meet an invasion of England by his brother, Robert, who came to claim it in virtue of the Treaty of Caen in 1091. The invasion came to naught, however, for with the assistance of the native English Henry was able to force Robert out of the country, and five years later, in 1106, to defeat and capture him at Tinchebrai and to conquer Normandy.

As regards the internal affairs of the English Church we find Anselm in the Council of Westminster in 1102, enforcing in the canons of that council many of the reforms which had by this time gained firm root on the continent. Among them were the condemnation of simony, insistence upon celibacy amongst the clergy, restrictions upon the bishops in judging secular pleas, the methods to be observed in the conduct and dress of clerics, restrictions upon the monks which prevented them from creating knights, abbots' conduct with regard to their subjects, commanding them to eat with their religious and to occupy the same type of sleeping quarters.[57] In spite of the opposition coming from Henry and his court, the general reform of the Church was now touching all classes of the clerical life and working wholesome benefits.

To return to the question of investitures. The quarrel ran on intermittently for almost seven years after Anselm's return to England in September, 1100. The archbishop remained firm, hoping to save as much as possible of the Gregorian ideal, and Henry, while not anxious to shatter that ideal, was solicitous for his domestic government and the security of his kingdom. Despite the fact that this reform was a laudable undertaking and proposed to bring the Christian Church back to a place of superiority, it must be admitted that it was indeed only an ideal. It could not possibly be realized in a complete fashion while the bishops and other clerical lords insisted upon holding their vast feudal possessions and serving as the king's nobles. That is the point about which the whole problem turns. What was the king to do for financial and military assistance and the security of unified government if the clerics, who held so much property, were to be suddenly freed from all feudal obligations, as the ideal of Hildebrand, carried to its logical conclusion, would certainly bring about? On the other hand how was the Church to affect any kind of permanent

[57] Eadmer, *op. cit.*, 141-144.

reform in her administrative government and defend her clerical offices against the encroachments of the royal authority, if the right of appointments was not returned to her jurisdiction? Common sense would dictate that either plan was untenable in the society of that day. A compromise was imperative. Each side must relinquish a bit of its original stand or lose all. Henry was not reluctant to go part way, and the pope, still anxious to retain Henry as an ally, was also prone to compromise.

At the suggestion of Henry the elderly archbishop made a trip to Rome in 1103, to try to come to some agreement on the delicate question between pope and king.[58] Henry demonstrated his ungracious temperament by seizing the archbishop's temporalities into his own hands in the absence of the primate from England.[59] It must be kept in mind that the major conflict between the pope and the German emperor was still raging at this time, and the pope needed the good offices of the English monarch to aid him in that menace. After a long period of negotiations, which were carried on between the contending parties, and a threat of excommunication levelled at Henry, Anselm and the king came finally to an agreement at Bec where the famous compromise was settled on August 15th, 1107. The ecclesiastic was to receive the ring and the staff, the emblems of his spiritual authority, from the hands of a representative of the Church, but the temporalities and the right to rule over them, were to be received from the hands of the king like any other baron.[60]

It was a distinct victory for the lay power. That authority stood almost exactly where it did before the controversy opened, free to nominate in practice to vacant sees, and receiving the territorial revenues of the Church under the same feudal conditions. The king had gained his point. Regarding the principle which the Church held intact, namely that of ecclesiastical appointments being bestowed by a representative of the Church, that the king had consented to forego. But in those clauses of the agreement

[58] Eadmer, *op. cit.*, 147.

[59] *Ibid.*, 159.

[60] Wilkins, *op. cit.*, I, 386. Cf. also *Cambridge Medieval History*, V, 521-552, for a brief treatment of the background of the period in which this struggle took place.

which embraced the paying of feudal dues and taxes to the realm, in which both sides were striving to obtain an advantage, the king gained a decided victory. It was upon a similar basis that the agreement with the emperor came to be settled in 1122 at Worms.[61] The Church retained her principle unimpaired.

Here we see concluded one of the important crises between the papacy and the secular arm. The Church, constantly increasing her supreme control over ecclesiastical matters, a movement which was spreading over Europe since the days of Gregory VII, and anxious to clear herself once and for all of the meddling processes of kings, suffered a severe set-back. It was destined that the Church should become the most powerful institution in Europe, embracing all nations, and wielding tremendous influence for good, but the point at which the Gregorian Reform aimed—a complete breaking of the fetters and bonds of kings, which tended to restrain her absolute power, was not to be attained.

Anselm died three years later during Holy Week of 1109, after having fought a courageous fight and having won for the English Church, if not absolute freedom, at least a much-needed disciplinary reform. The year before he died, in the canons issued from the Council of London in 1108, he forbade the clergy to marry or harbor women, and exacted grave punishments of those who might disobey—excommunication, forfeiture of rights, property, etc.[62] After Anselm's death Henry engaged in a successful war with France and Anjou between 1110 and 1119, and occupied his time crushing revolts in Wales and Normandy.

The only other important feature of this reign of thirty-five years to be noticed, is something which has no direct bearing upon England but which is included within our subject, namely the Concordat of Worms or *Pactum Calixtinum,* signed between Pope Calixtus II (1119-1124) and Emperor Henry V (1106-1125) on September 23rd, 1122.[63] This Concordat settled the mooted and

[61] Reich, *op. cit.*, 162-163.

[62] Wilkins, *op. cit.*, I, 387-388.

[63] Reich, *op. cit.*, 162-163, for text of agreement between Calixtus and Henry. Cf. *Cambridge Medieval History*, V, 105-111, and Carlyle–Carlyle, *op. cit.*, IV, 81-164, for detailed discussion of investiture conflict on the continent and its settlement.

troublesome question of investitures between the empire and the papacy, along the same lines as the compromise of 1107 between the pope and the English king.

It is also significant to point out that after Anselm's death the see of Canterbury was vacant five years, a situation of which the Church could not possibly have approved, but which the power of Henry made possible. In November, 1120 Henry lost his son and heir, William, who was drowned in the wreck of the White Ship. Numerous claimants arose and violent civil conflicts ensued during the last years of Henry's rule, so that when that king breathed his last in the winter of 1135 conditions did not augur well for England's future.

It is impossible for us to enter here upon an explanation of the conflict between the contending parties which finally brought the English and Norman thrones under Stephen of Blois (1135-1154), the grandson of the Conqueror by his daughter, Adela. It is sufficient to state that the act was accomplished largely through the efforts of Stephen's brother, Henry, bishop of Winchester. The bishop was the unquestioned leader of the clerical party, enjoying vast revenues and powerful political connections. It was he who really secured Stephen his throne, though Pope Innocent II (1130-1143) formally recognized Stephen's right to the kingdom as against Matilda, the daughter of Henry I.[64] The reign of Stephen holds but one feature of interest for our problem, and that is the important part played by such ecclesiastics as the king's brother, the bishop of Winchester.

The first significant act of the new king toward the Church was one of conciliation. In 1136 he published an elaborate Charter of Liberties which proposed to grant and assure its freedom. The Charter promised that no simony in the Church should be allowed, and it confirmed the jurisdiction over ecclesiastical persons and property to the bishops' courts. It likewise confirmed the privileges and rights of the churches, and granted to the ecclesiastical order

[64] Richard of Hexham, *Chronicles of the Reigns of Stephen, Henry II, and Richard I*, III, 147-148, Rolls Series, London, 1886.

all property and possessions held by it at the time of the Conqueror's death. Stephen promised moreover in his Charter to respect the property which had been given into the hands of the clerics since the death of his grandfather, and not to interfere with the disposition of clercial goods which an ecclesiastic might make before his death. Lastly he promised to allow the goods and properties of vacant sees and benefices to be given over to the hands of the clerical order during the period of vacancy, and not to interfere with such possessions while they were being held pending the canonical appointment of a successor to the benefice. He abolished in his Charter all exactions and injuries which had been wrongfully introduced by sheriffs and other officials of the realm against the Church and her men.[65]

It is quite evident from the declarations contained in this Charter that if these promises were carried out the Church would be free from many of the grievances she had brought against the state. But unfortunately Stephen was never secure enough in his tenure of the crown to put these things into practice, even if he had the purpose to do so.

As we have said a strong clerical element figures in this reign of anarchy and chaos. It was an instance of the great ecclesiastical barons, functioning in the rôle of temporal lords, a status which their double character as both spiritual and temporal nobles, gave to them. An example of the intrigue and plotting on the part of conspiring bishops is found in the case of Roger, bishop of Salisbury, and justiciar of the realm for the first four years of Stephen's reign. He was joined in all his undertakings by his two nephews, Bishop Alexander of Lincoln and Bishop Nigel of Ely. The rivals of these three clerics excited Stephen into believing that they were conspiring against him in favor of his aunt, Matilda. Stephen seized the castles of two,[66] and the third, the bishop of Ely, was forced to give way before a threat to punish his uncle, Roger of Salisbury, with death. Immediately the whole body of the clergy throughout England became enraged, led by Stephen's brother, Henry of Winchester, whom Pope Innocent II had lately

[65] Stubbs, *op. cit.*, 120, trans. in Adams and Stephens, *Select Documents of English Constitutional History*, 8-9.

[66] Malmesbury, *op. cit.*, II, 547.

made papal legate.[67] In a Council at Winchester in August, 1139, they accused the king of having illegally usurped the property of the Church and impiously laid hands upon prelates, whose persons had hitherto been deemed sacred, and they pleaded with Stephen that he should release the bishops and restore their lands to them.[68]

Stephen turned a deaf ear to their entreaties. At last the advice of the archbishop of Rouen was asked and he came to the assembly, claiming that he did not dispute the law as laid down by the legate and his prelates, but that this was a particular case. These bishops had not lived according to the canons, which forbade them to engage in any kind of military pursuit; therefore they could not claim restitution of fortresses, which it was unlawful for them to hold.[69] The archbishop's contention was that if they formerly possessed them it was merely by the king's indulgence. The king's lawyer, Alberic, then appealed in the sovereign's name to the pope and forbade the council, under pain of royal displeasure, to proceed further.[70] Henry of Winchester, the papal legate, and Theobald, archbishop of Canterbury, made one more effort to win Stephen over, throwing themselves at his feet and begging him to free the bishops.

But the king remained adamant. He was to suffer for that obstinacy. He had offended the order which was most influential in securing his crown for him. His ingratitude was never forgiven. In that age of intrigue and dissension, when the king conducted his rule with such a doubtful strength, it was easy enough for Stephen to believe the rumors which the enemies of the imprisoned bishops poured into his ears. He saw them in the light of powerful barons, possessing extensive property and manpower, which might easily be converted into a force against his throne. It was not therefore such an extraordinary procedure for him to assume the attitude which he did toward the prelates whom he suspected of treason.

The council which heard the case of the bishops had met in August, 1139. In the following month Matilda landed in England. There ensued a period of fierce civil strife during which Matilda made a real effort to rule, aided as she was by Henry, Stephen's

[67] Malmesbury, *op. cit.*, II, 550.
[68] *Ibid.*, II, 550-555.
[69] *Ibid.*, II, 554.
[70] *Ibid.*, II, 554.

brother, who supported her because of Stephen's defiant conduct toward the clergy two years previous. However, Matilda proved an unhappy failure as a ruler and she left England in 1147. It might be thought that Stephen could now regain his strength, but he was too competent a blunderer to hope for that. The barons continued their civil feuds and Stephen, lacking the essentials of leadership, failed to quell the disturbances. Theobald, the archbishop of Canterbury, had thrown in his influence on the side of Matilda, which took from Stephen any support he might have received from the ecclesiastical element, having so deeply offended that class of his subjects some years previous by his action against the bishops.[71]

Meanwhile the king showed little disposition to adjust his difficulties with the churchmen. By trying to prevent Theobald from attending the papal council at Rheims in March, 1148, and by expelling the primate when he returned to England, the king had his private land put under interdict.[72] He thus lost for his cause the support of the papacy and found that the archbishop was unwilling to crown his son, Eustace, which the primate felt would only prolong the strife.[73] He drove Theobald into exile in 1148 and again in 1152.[74] After a time, however, Theobald returned again to England and took part in the negotiations for a treaty between Stephen and Henry Plantagenet, the son of Matilda. That agreement is known as the Treaty of Wallingford or Winchester. It was signed in November, 1153. Stephen agreed by the terms of that treaty that Henry should be his successor upon his death. For the remaining eleven months of his life he continued to rule a somewhat more settled kingdom. He died in October, 1154.

The reign of Stephen adds little to the main theme of our narrative. Aside from the case of the imprisoned bishops and the important part played by the other ecclesiastical barons in the government of the kingdom during these years, both of which afford a practical example of the dual status of these lords, Stephen's rule is marked by nothing so much as the confusing series of civil wars which occupied the center of attention during his time as king.

[71] Gwatkin, H., *Church and State in England to the Death of Queen Anne*, 54, New York, 1917.

[72] *The Historical Works of Gervase of Canterbury*, I, 134-135, Rolls Series, London, 1879. [73] *Ibid.*, I, 150. [74] *Ibid.*, I, 151.

CHAPTER II

The Submission of England

The reign of Henry II (1154-1189), the first Plantagenet king of England, finds that prince the most important ruler in Western Europe. He not only possessed England and Normandy, but ruled Maine, Anjou, and Aquitaine as well. He was far more powerful than the king of France, to whom he owed homage for his French possessions. Henry's reign carries us into one of the most important periods of the Middle Ages. The papacy, under the reigns of Adrian IV (1154-1159), the only English pope, Alexander III (1159-1181), and their successors, was making rapid progress toward that place of supremacy which it was soon to occupy in Europe under Pope Innocent III (1198-1216). The Holy See renewed its struggle with the Hohenstaufen emperors, from which it was to come forth victorious, leaving the empire a mere phantom.[1] France, under Philip Augustus (1180-1223), was to take on nationality in a real sense, and ultimately to humble the Angevin power within its borders. Even the Italian city-states were to awaken some hope of unity and mutual protection, and to drive out the German overlord from their territories. Scholars were to give a name to the century with their love of learning and research.[2] Europe was sending its princes and rulers to the Holy Land in this century upon the glamorous campaigns of the Crusades. This was the period of the most brilliant and successful of those expeditions. Hence when the young Henry took his throne all Europe had already embarked upon a new and more embracing life.[3]

The first few years of his rule were quiet and peaceful. Adrian

[1] Cf. Thatcher–McNeal, *A Source Book for Medieval History*, 199-202, for the humiliating terms of peace agreed to by Emperor Frederick Barbarossa in the Peace of Constance, signed on January 25th, 1183.

[2] Cf. Charles H. Haskins' *Renaissance of the Twelfth Century*, Cambridge, Mass., 1927, for a detailed account of the intellectual life of Europe in this century.

[3] Cf. *Cambridge Medieval History*, V, Chaps. V-XIII, 208-453, for the European background of this period.

IV, the English pope, occupied the papal throne and was well disposed toward the new king. As chancellor the king had early selected Thomas a Becket, the protege of Archbishop Theobald of Canterbury. In Thomas he found a worthy helper, a man always anxious to stretch a point in favor of his sovereign. All seemed to go well until April, 1161, when Theobald died and the question of his successor arose. For a year the see was left vacant, but at last Henry called Thomas to him and told him that he must prepare to become the archbishop of Canterbury, (1162-1170).[4] Thomas almost immediately relinquished his chancellorship and settled down to the serious business of his new office. The spiritual responsibilities of the archbishopric and his position as primate of the English Church caused Thomas to change his manner of life from one of wealth, luxury, and easy living to strict asceticism.[5]

The last major conflict between the two powers, the ecclesiastical and the lay, had been waged between Archbishop Anselm and Kings William II and Henry I over the question of lay investitures, which was concluded in the king's favor.[6] The new struggle, which was now to ensue between Thomas a Becket and Henry II, arose over the effort of the secular power to extend its jurisdiction to the clergy in criminal cases.[7] Already the situation which was mentioned in connection with the Conqueror's separation of the two courts, namely which court was to judge the secular crimes of a clerk and the spiritual crimes of a layman, was beginning to take form.[8] This question of jurisdiction came to a head in the case of a certain canon of Bedford, Philip de Brois, who had offered an insult to one of the king's justices.[9] He had been deprived of the exercise of his priestly functions, his income, and had been whipped by order of the clerical court. But Henry was not satisfied, and he determined to use this incident as the opening wedge

[4] *Materials for the History of Thomas Becket*, I, 6. Rolls Series, London, 1875-1885.

[5] *Ibid.*, I, 10-12.

[6] Cf. 21 of this work for settlement of dispute on investitures.

[7] A previous difference had arisen between Becket and the king over the collection of a tax from the clergy, but it was of a minor character. *Materials for the History of Thomas Becket*, I, 12.

[8] Cf. 6 of this study.

[9] *Materials for the History of Thomas Becket*, I, 12-13.

in forcing the clerical order to forfeit their privilege of judging criminous clerks.[10]

But this new course of action on the part of Henry at this time must inevitably have led him into conflict with Rome. The papacy, of which Becket was the representative in this case, was rising in power throughout all Europe. The church was rapidly attaining its position as the mighty and effective spiritual force in the Christian world. Everywhere in Europe its courts had been enjoying the clerical privilege with regard to faulty clerics, trying them in the ecclesiastical courts and punishing them as the ecclesiastical judges saw fit. Furthermore these courts netted the Church considerable revenue, for there were often large fees to be gained from the cases heard under their jurisdiction. Consequently Rome would not readily relinquish this source of revenue, especially since the Holy See was so badly in need of money at this time to protect itself from the constant encroachments of the German emperors.[11] But on the other hand the Church was not prone to offend the Angevin king of England since she required his good graces, as she did those of the king of France, for her struggle with the empire.

As for Henry's position in this dispute, it was not wholly untenable. He viewed the situation through the eyes of a practical ruler, desirous of preserving the reins of government over his subjects in his own hands. He did not relish the idea that such a

[10] Maitland sums up his interpretation of the desire of the secular power thus: "The scheme is this: accusation and plea in the temporal court; *trial*, conviction, degradation in the ecclesiastical court; sentence in the temporal court to the laymen's punishment". *Roman Canon Law in the Church of England*, 135, by F. W. Maitland, London, 1898. Chap. IV, "Henry II and the Criminous Clerks", of this work contains a complete account of the legal aspects of the controversy.

[11] Alexander III was compelled to quit Rome for France due to Frederick's tyranny in 1162; he returned in 1164 but was forced to flee again for Benevento in 1167 when Frederick invaded Italy. It was not until June, 1177, in the Peace of Venice, that a truce was agreed upon between them at which time Frederick acknowledged Alexander as the rightful Pope. Cf. J. Alzog, *Manual of Universal Church History*, II, 560-563. A lasting peace was not signed until the Treaty of Constance, signed by Barbarossa and Lucius III (1181-1185), Alexander's successor, on January 24th, 1183. Cf. Thatcher–McNeal, *op. cit.*, 199-202.

comparatively numerous body of his people as the clergy constituted should be left too much freedom to commit acts against the peace of the realm at will, and be punished solely by the ecclesiastical courts and not in the courts of the realm over which he exercised jurisdiction.

Moreover the king was shrewd enough to realize his own strength. He knew that he was far more powerful than his fellow rulers of France or the empire. Henry was conscious of the fact that the papacy looked with prudent respect upon his far-flung dominions and the firm grip which he had over them. He also appreciated the additional security which he enjoyed from the geographical isolation of England itself. Lastly Henry was as eager to receive the revenue which was going to the Church from her courts as the Church was to retain that revenue. The king must have watched with envious gaze the money which passed into the ecclesiastical courts, and which he imagined, by a mere act of legislation, might be made to flow into different coffers.

Henry therefore called the bishops to Winchester in the fall of 1163 and asked them to accept the conditions which he proposed concerning the courts under the rather vague phrase, "his grandfather's customs", especially as regarded the question of clerks who had committed crimes being tried and sentenced in the secular courts[12] Archbishop Becket inspired the salutary clause, "saving our Order", for the acceptance of these customs, but more than that opposition is not credited him at the Winchester gathering. When Pope Alexander III was apprised of the proceedings he was uneasy lest the English bishops place too strict an interpretation upon Henry's demands and thereby alienate the affections of that monarch. Alexander was in a desperate plight just at this time. The pressure of the Emperor's opposition compelled him to leave Italy and take up his residence at Sens in France, where he was dependent upon the hospitality of the French king. The pope's financial condition was grave since the source of his revenue was seriously depleted by this forced exile. A strong anti-pope, Paschal III (1164-1168) was threatening, and Pope Alexander was

[12] Cf. Hutton, W. H., (Ed.), *St. Thomas of Canterbury*, 44 ff., London, 1889, for a description of the scene of Henry's demand and the prelates' anxiety.

not ungrateful for the recognition given him as rightful sovereign pontiff by King Henry in 1160, an act which considerably strengthened his hand. Moreover the pope knew that Henry had the most powerful of the nobility behind him in England.

Late in the year 1163 the archbishop of Canterbury had compromised himself by a verbal promise of agreement to accept the customs of Henry without the saving clause, having been convinced that it was the Pope's desire that he should do so by the representations of his friends and the pressure of his enemies.[13] The king did not wait long when he heard of this promise, for he was in haste to secure Becket's agreement in writing while Thomas was disposed to give it. He called a council at Clarendon in January, 1164, and demanded that it give its unqualified approval to the customs.[14] Becket again asked for the clause, "saving our Order", whereupon the king flew into a rage and the archbishop hesitatingly yielded and promised to adhere without the clause. But as yet the "customs" were very vague. Consequently on January 26th was framed the Constitutions of Clarendon. Becket again moved slowly and reluctantly, but at last he yielded by accepting the Constitutions in order to protect his fellow bishops from the threats levelled against them if they did not agree. He refused, however, to set his seal to the document.[15]

The Archbishop's action in agreeing to the Constitutions can best be appreciated when we realize that he felt he would be embarrassing the pope by doing otherwise, that his view was so contrary to the common opinion of all about him, and that while he felt certain vital principles of the Church were endangered by the Constitutions, yet he realized that only a few specific innovations were demanded. All these circumstances harassed Becket's mind and caused his hesitation. His agreement is condoned to a certain degree by the fact that he was but one acting against practically a whole nation, and that at this time, so far as he knew, the pope was in favor of his acceptance.

As the Constitutions of Clarendon are the first definite and formal hostile act of legislation against the exercise of supreme

[13] *Materials for the History of Thomas Becket*, II, 378-379.
[14] *Ibid.*, II, 379-380.
[15] *Ibid.*, II, 382-383.

power by the papacy in England it is important that the main points at issue in these measures be given here.

Regarding those clauses in the Constitutions affecting the disposition of cases at law the following are to be found: 1. In case of a controversy over the presentation or advowson to vacant churches, etc., occurring between noblemen and clergy, that case must be referred to the king's court; 2. Clergy accused of any matter, when called by the king's justice, shall come to the king's court to answer there for what the king wishes—then to the clerical court to answer there. The king's justice, however, must accompany the cleric to the ecclesiastical court to see how the matter is treated and if the clerk is convicted or confesses, in which case the Church must protect him no longer; 3. Laymen are not to be accused save by proper and legal accusers and witnesses in the presence of the bishop. If the accused be such that no one dares accuse him, the sheriff when requested by the bishop, shall cause twelve lawful men from the neighborhood or town to swear before the bishop that they will show the truth in the matter according to their conscience; 4. If appeals are made from archdeacon to bishop and bishop to archbishop and the latter fails to render justice, then such appeals must be brought to the king so that by his command the dispute may be settled in the archbishop's court in order that the matter may not linger on without the assent of the king; 5. Disputes between clerics and laymen, concerning any tenement which they wish to bring to their respective fees, shall be concluded by the king's chief justice on the award of twelve men. If it be awarded to frankalmoigne, i. e. to religious tenure of lands without fees, the dispute shall go to the Church court, otherwise to the king's court, unless both appeal the fee to the same bishop or baron in which case it may be settled in his own court.

It will be noticed that these articles give over practically all civil cases into the jurisdiction of the king's court, or if they permit the cases to originate in the ecclesiastical court the representative of the king should be present to report the proceedings. This vast change upset the judicial system of English courts as it had been in practice since the days of the Conqueror. The new legislation regarding criminal cases also marked a fundamental change in

procedure as is evidenced by the articles touching upon excommunications: 1. No one is to be excommunicated, nor their lands placed under interdict, until the king be applied to in order that he might do right for him, and too, that what of the matter appertained to the royal court might be concluded there; 2. Excommunicated persons are not to give pledge for the future, nor take oaths, but only to give security and pledge of abiding by the Church's judgment that they may be absolved; 3. If anyone be cited by an archdeacon or bishop for offense and he refuse to give satisfaction it is lawful to place him under interdict—but not until the chief officer of the king be applied to in order that he may adjudge him to come for satisfaction. If the officer should fail in this duty he shall be at the king's mercy and thereafter the bishop may restrain the subject by ecclesiastical justice.

These measures pertaining to excommunications had their origin in the days of William the Conqueror. At that period of the Middle Ages, when membership in the Church meant everything, excommunications and interdicts were regarded very seriously, for an excommunication not only cut the victim off from the consolation of religious services and ministrations, but made of him a veritable outlaw. It was natural that expedients would be sought to offset these censures, and the kings raised the contention that excommunications should not be inflicted upon their subjects without their consent, for thereby the services of these men to the king were rendered impossible during the term of excommunication. Undoubtedly the power of excommunication was abused by the ecclesiastical authorities at times, but it offered them an effective weapon of protection against the incursions of the nobles and their hired hands upon their rights and property.

Apart entirely from the question of lay and ecclesiastical jurisdiction, and that of excommunication and other ecclesiastical punishments, certain articles in the Constitutions touch the property of the clerical order. 1. Churches belonging to the fee of the king cannot be granted in perpetuity without his assent and grant; 2. All archbishops, bishops, etc., who hold of the king in chief, have their possessions from the king as barony, and are answerable to his justices. They must follow and do all rights and customs, and like all other barons must be present at the trials of the court

of the king; 3. When an archbishopric or bishopric becomes vacant, or an abbey or priory of the king's domain, it must be left in his hand and from it he shall receive all rents. When it is filled the king must cite the chief persons of the Church and election must take place in the king's chapel with the assent of the ruler, and advice of the persons of the realm whom he shall have summoned. The party elected shall do homage and fealty to the king as his liege lord for his life and limbs and earthly honor before he is consecrated; 4. Goods of those under forfeit of the king, no church or cemetery is to detain against the king's justice, because they belong to the king, whether found inside churches or not.

The spirit of these articles reflects the attitude that had been taken by William II toward the property of the Church, but it is surely in direct opposition to the sworn words of Henry I and King Stephen, and of Henry II himself, as contained in their Charters confirmed at the opening of their reigns. These rulers gave their promise not to interfere with the property of the Church, nor the filling of her offices.[16] Henry II could not therefore class these customs under the heading of "ancient".

There are several remaining clauses of the Constitutions of Clarendon which merit mention. One is that archbishops, bishops, and other high ecclesiastics of the realm must not leave the kingdom without permission of the king, and must give, if the king so please, security that they will not seek or do ill or damage to the king or his realm in their absence. This of course is directed at complaints being lodged in Rome against the king's actions, a question of which we shall hear a great deal later. Two other minor measures were to the effect that pleas of debt due under pledge of faith or without pledge of faith were to be in the king's justice; and sons of villeins were not to be ordained without the assent of the lord on whose land they were known to be born.[17]

From an examination of these Constitutions it is quite evident that here indeed is anti-papalism in a very real form. The declaration that all ecclesiastical benefices of royal foundation should

[16] Cf. Henry I's Charter, also Stephen's, 18, 23-24, of this study.

[17] Stubbs, *Select Charters*, 137, contains the Latin text of the Constitutions of Clarendon. Gee and Hardy, *Documents Illustrative of English Church History*, 69-70, give these articles in translation.

be handled in strict conformity with the knowledge and wishes of the king, is only a step toward the effort of the secular power to place within its jurisdiction the filling of all clerical benefices, even those not of royal foundation. There was little opportunity left in this act for anything like independent Church elections to the latter. The provision that all suits, whether civil or criminal, should fall to the king's justices if a cleric was involved, was precisely the matter over which the conflict between Becket and Henry had originated. The restrictions placed upon sentences of excommunication and interdict, and appeals to Rome in these Constitutions offered a firm foundation for the Statutes of Praemunire in the reigns of Edward III (1327-1377) and of Richard II (1377-1399).

It must also be kept in mind that these decrees were approved by the archbishop of Canterbury, the primate of England, reluctant as the primate might have been to give such approval, and all his suffragan bishops. It was a factor which added to the weight of the decrees when considered by subsequent kings. While it is true that they were later repudiated by Henry, and even repealed as one author tells us,[18] the fact still remains that they were extant upon the statute books, ready to be taken up again and used by later monarchs when the incident of Becket's murder had become a memory, and at a time, almost two hundred years later, when the papacy had ceased to enjoy its universal influence in the political affairs of Europe. As for the "antiquity" of these measures, all will agree with Lingard in that most of them could claim no greater antiquity than the reign of the Conqueror.[19] The reference given by Henry II in these laws to the Conqueror's rulings offers an example of how this anti-papal trend in English legislation may be said to have begun with William I and was abetted by the dangerous precedents allowed that ruler by the Holy See.

Following the signing of the Constitutions of Clarendon Archbishop Becket found little peace of mind. He had soon repented of his assent to the Constitutions and he wrote a complete account

[18] Waterworth, W., *England and Rome*, 286, London, 1854.
[19] Lingard–Belloc, *The History of England*, II, 132.

of the affair to the pope, begging his absolution for his temporary weakness and meanwhile forbidding himself the exercise of his priestly functions. This change of mind by Thomas angered the king exceedingly and Henry began adopting an intolerable attitude toward the primate. He placed heavy fines upon him for not appearing to answer the summons of the king to his court, and at the Council of Northampton in October, 1164, Henry asked him to refund money for which the king claimed he had never given account while chancellor.[20] Becket, at last desperate when the council of the barons threatened to levy a sentence upon him and his patience exhausted by the petty and annoying persecutions, said he would appeal to Rome.[21] He left England in the garb of a simple monk in November, 1164,[22] going by way of France whose king, Louis VII (1137-1180), used the opportunity of befriending Becket as a weapon to weaken his Angevin rival.[23] The archbishop then met the pope at Sens, who counseled him that they should temporize, declaring that the clauses of the Constitutions were unacceptable on the whole, but that six of them might be tolerated.[24] Thomas waited at the Cistercian abbey of Pontigny for the case to be settled. Meanwhile upon the death of the anti-pope Victor (1159-1164), Alexander III went back to Rome.

Alexander moved to Rome in 1164. Two years later, in 1166, we find Henry holding his position with tenacity and showing no signs of leniency toward his archbishop, who was still in France. In fact the king had passed in his council of bishops and feudal barons in that year another measure which showed very definitely that he had not undergone a change of heart. This was the Assize of Clarendon.[25] In this enactment it was declared that the king prohibited all monks and canons of religious houses from receiving any one of the lesser people as a monk, canon, or brother, until it was known what reputation he had, what feudal dues, obligations, and ties bound him to his master. This act was heartily

[20] *Materials for the History of Thomas Becket*, II, 392, 396.
[21] *Ibid.*, II, 398.
[22] *Ibid.*, I, 39-43.
[23] *Ibid.*, I, 45.
[24] Mann, *The Lives of the Popes in the Middle Ages*, X, 177.
[25] Stubbs, *op. cit.*, 143.

subscribed to by the feudal barons who were growing anxious lest their vassals be given too great liberties of entering the clerical profession at will and thereby endangering the proper cultivation of the feudal lands of their lords.

Several meetings took place between Thomas and Henry on the continent in the spring and fall of 1169 but little came of them, for Henry refused to yield any ground and Thomas, with the acknowledged support of the papacy at this time, would not give way to the king. An event took place which at last brought definite action from the Holy See, which had delayed as long as possible in a vain effort not to offend Henry.[26]

With the solicitude of all kings for their successors Henry had his son, Prince Henry, crowned in June, 1170 by the archbishop of York, the avowed enemy of Becket.[27] This was a flagrant violation on the part of the king and of the archbishop of York of an age-honored custom and right of Canterbury to crown the kings and princes of England. Moreover the pope had written several letters in March and April of that year, warning the archbishop of York and the other bishops of England not to crown the prince as this was the special right of Canterbury.[28] When news reached Alexander III of the coronation he moved at once to insist upon the return of Becket to England and threatened an interdict over the island if his order was not obeyed. Henry was brought to a realization of the unreasonableness of his stand after a meeting with the French king, and he consented to take part in a public reconciliation between himself and the archbishop of Canterbury. He promised in July, 1170 to restore the see and wealth of Canterbury to Becket and to be guided by him in the action he should take to atone for the insulting coronation.[29]

Before passing to the close of the conflict between the archbishop

[26] The papacy was still trying to adjust matters peaceably as we may learn from Alexander III's letter to Henry II in 1169 wherein he asks that legates be sent from England in order that the entire controversy between Henry and Becket might be investigated at Rome. Wilkins, *Concilia*, I, 456-458.

[27] *Materials for the History of Thomas Becket*, II, 407.

[28] Wilkins, *op. cit.*, I, 459.

[29] *Materials for the History of Thomas Becket*, I, 84-85.

and the king it is necessary to note an act commonly styled the Inquest of the Sheriffs.[30] In this measure of 1170 the king commanded that an inquisition be made concerning the archbishops, bishops, and stewards as to what and how much they received from their lands, their vills, hundreds, and men, by a judgment or without a judgment, and Henry commanded the sheriffs to write down the causes and occasions of all such exactions. It is plainly evident from this decree that Henry had little or no intention of releasing his hold upon the Church and her feudal lands. On the contrary he was tightening the bonds of his control about the ecclesiastical barons so that they might not escape the payments of all feudal dues to the crown.

Following the promise of agreement with Becket made by the king, Thomas returned to England in November, 1170. He took with him letters from the pope condemning the Constitutions of Clarendon, and also letters of suspension for those bishops who had taken part in the coronation of young Henry.[31] He was clever enough to evade messengers sent to seize the letters when he landed, by sending them on with another party.[32] The letters were presented and consternation reigned amongst the followers of the three bishops.[33] The latter demanded the withdrawal of the letters. Becket promised to withdraw those of the bishops of Salisbury and London if they would conform to the pope's orders, as these two bishops had shown a disposition to submit, but the suspension of Roger of York he refused to take back, for the archbishop of York had declined a reconciliation and advised recourse to the king.[34] The censured bishops went overseas to appeal directly to Henry, who was still in France.[35]

Shortly after Christmas, 1170 several knights, who had overheard the remark of Henry that his followers did not have the

[30] Stubbs, *op. cit.*, 148.

[31] Alexander III had suspended the archbishop of York and excommunicated the bishops of Salisbury and London for their part in the coronation ceremony. Wilkins, *op. cit.*, I, 459.

[32] *Materials for the History of Thomas Becket*, I, 97.

[33] *Ibid.*, II, 428. Cf. *ibid.*, I, 89-95, for texts of letters from the pope to suspended bishops sent by Becket.

[34] *Ibid.*, I, 99.

[35] *Ibid.*, I, 105.

courage to rid him of "this priest", crossed the channel to England and appeared before Thomas, demanding the freedom of the bishops from suspension.[36] The archbishop refused, telling them it was the pope's command and he would obey it.[37] They went away only to return again to receive a second refusal. When they perceived that their words were of no avail with the archbishop they committed the extreme act of murdering the prelate before the altar of his cathedral.[38]

The murder of Becket stopped Henry instantly from further action against the Church. He was in the position of a man condemned, waiting to hear his sentence. The public opinion of Christian Europe was outraged by the deed and was now turned against the king. Henry waited all through the summer for execution of his sentence, and at last, partly because of the ominous silence, he was driven in October to undertake the conquest of Ireland as a scene of action for his troubled mind. Early in the spring of 1172, King Henry received word that the legates who had been appointed by the pope to hear the case had declared in his favor.[39] He went immediately to France where, at the Council of Avranches, he swore upon the gospels that he was innocent, agreed to maintain two hundred knights in the Holy Land for penance, and foreswore any customs which might be hostile to the liberty of the Church, to permit appeals to Rome, to restore the possessions of the church of Canterbury and of those of the exiles he had sent out of the kingdom as Becket's sympathizers, not to recede from obedience to Pope Alexander III, and lastly to take the cross for three years.[40]

[36] Cf. Hutton, *op. cit.*, 232 ff., for account of Henry's rash words at his interview with the barons and his later regret.

[37] *Materials for the History of Thomas Becket*, II, 432.

[38] *Ibid.*, I, 123-133, relate the story of the conspiracy. Cf. *ibid.*, II, 429-439, for description of the plunder of the episcopal palace, the persecution of Becket's adherents, etc.

[39] Roger of Hoveden, *Chronica*, II, 35-37, Rolls Series, London, 1868-1871.

[40] *Ibid.*, II, 35-36. Cf. also *Cambridge Medieval History*, V, 557-565. Belloc, *op. cit.*, II, 229, states it as a probability that Henry privately offered homage for England to the Holy See. This fact, however, is doubtful.

Concerning the origin of the fatal conflict between Becket and Henry nothing was heard at this time, for it was not until the great Council of Northampton in 1176, that the exact status of criminous clerks was definitely settled. They were to appear before the ecclesiastical courts only, except in the matter of a lay fee held by them wherein service was due to a lay lord, or for breaking a forest law. This procedure was to be followed in first offences. Upon a second offence the accused cleric was to go before the king's justices. The king also agreed to other arrangements in this Council. He promised not to keep bishoprics and abbacies vacant for more than one year, not to compel clerics to trial by combat, and not only to inflict the ordinary punishment upon an individual who had been convicted of the murder of a cleric before the king's justiciary in the presence of an official of the bishop, but also to deprive that individual of his inheritance forever.[41]

The remainder of his years Henry spent in fighting the king of Scotland whom he humbled, putting down the revolts of the clique of his wife, Eleanor, and guarding his French dominions after the accession of the powerful Philip Augustus in 1180.

In 1188 the first tax on movables or personal property was levied in England for the expenses of the crusades. It was called the Saladin Tithe. Each baron was required to pay one-tenth of his revenues and movable property, with the exception of clerical vestments, books, clothing, and articles used in the divine service for the clerics, and the horses, arms, and clothing for the laymen.[42]

In July, 1189 King Henry II died. He had passed through a number of years of peace with the papacy, having given manifestation of his repentance at the tomb of Thomas Becket in 1174, and securing the aid of the Holy See in his contest with Queen Eleanor and her following.[43]

The end of the long conflict found the papacy the victor. By slow, temperate action the Church had humbled the king of Eng-

[41] Ralph de Diceto, *Opera Historica*, I, 410, Rolls Series, London, 1876. Cf. also Gabel, Leona C., *Benefit of Clergy in England in the Later Middle Ages*, 25-29.

[42] Stubbs, *op. cit.*, 160.

[43] *Cambridge Medieval History*, V, 554-591, for an account of the whole of Henry II's reign.

land, but it is doubtful if it would have ever been able to do so were it not for the murder of Archbishop Becket. That was the deciding factor of the struggle. With Thomas' assassination Henry's support staggered on all sides and obliterated all hope of his becoming the permanent ruler of continental France and England combined. As the Church had temporized and finally compromised in the conflict between Anselm and William II and Henry I, so this time she had again parleyed for her own safety, and the secular arm was defeated with the murder of one of her leading ecclesiastics. It is important to note this in connection with what is to happen during the reign of King John, Henry II's son, when the papacy, at the very height of its prestige under Innocent III, accomplished the submission of England.

The reign of Richard I, Henry's oldest living son, extending from July, 1189 to April, 1199 has very little of interest for our problem. It was a period during which the king was on the continent most of the time, where he underwent a long imprisonment at the hands of the German Emperor, Henry VI, (1190-1197), after having figured as a leader in the Third Crusade.[44] It was a period of intrigues and plots on the part of Richard's brother, John, against the officials whom Richard had left to rule in his stead.

The governors of the kingdom during this reign were practically all ecclesiastics, and their activity serves as a good example of how much power the great churchmen held during these years of the Middle Ages. As justiciars and as chancellors we find the offices of King Richard filled with the bishops of the realm, headed by William Longchamp, bishop of Ely, as chancellor (1189-1197), as justiciar (1190-1191), and as papal legate. The absence of the

[44] In April, 1193 Pope Celestine III showed his gratitude for Richard's efforts in the Holy Land by threatening the emperor with excommunication if he did not release his prisoner. He had threatened Philip Augustus with a like punishment if he laid hands upon the English king in October, 1191, when Philip visited Rome after his desertion of the crusade. Philip had rumored an attack upon Richard and his continental lands for the latter's actions against him while on crusade. Cf. Roger of Hoveden, *op. cit.*, III, 208.

king gave these ecclesiastics the opportunity to act in the capacity of really supreme ministers. As one author says: "Their rivalry is the first instance of ministerial struggles, and their comparatively orderly government and legal procedure are a strong testimony to the efficacy of the government established by Henry II".[45]

Upon the death of Richard I in April, 1199, his brother, John succeeded to the throne of England.

With King John (1199-1216) there opens one of the most interesting episodes of our study. The papacy reached the peak of its power during these years under Pope Innocent III (1198-1216).[46] For a brief moment there existed something like a Christian Republic of Europe with the pope as the supreme arbitrator, a condition toward which the papacy had been striving for centuries. The empire had been overcome and a situation akin to universal peace reigned throughout Europe. In the great Lateran Council of 1215, which met in the closing years of Innocent's pontificate, over four hundred bishops and eight hundred abbots had assembled, and they showed the utmost deference to the wishes of the sovereign pontiff.[47] It was a gesture that might well acquaint the kings of Europe with the strength of the institution which these men represented, and the gesture was not lost upon them.[48] Consequently it is important to keep in mind the immense prestige of the papacy while viewing the events which transpired during the course of the kingship of John in England.

It is unnecessary for our purpose to enter into that greatly detailed discussion which ensued in the early years of John's reign between himself and the shrewd and calculating Philip Augustus of France, at the end of which John was completely stripped of all

[45] Cf. Malden, H. E., *English Records, A Companion to the History of England*, 39, London, 1894, where a complete list of the ecclesiastics who served as high officials of the realm during Richard's reign will be found.

[46] Cf. *Cambridge Medieval History*, VI, 1-43, for a summary of Innocent III's position.

[47] Hefele–Leclercq, *op. cit.*, V, 1316-1323.

[48] Cf. Barry, W., *The Papal Monarchy*, 324-332. New York, 1902. Cf. also Carlyle–Carlyle, *op. cit.*, V, 151-186.

his extensive continental possessions except Gascony.[49] This was one of the facts which estranged all England from John and contributed to his humiliation in 1213-1215. It was this same Philip Augustus, who as the first really strong king of France, started the anti-papal movement in that country. It was in the reign of Philip that the policy of subjection inflicted upon the nobility began. The crown was making strenuous efforts to bend the powerful nobles to its will. The king was prompted by sentiments of national pride for the betterment and material prosperity of the state at large, and he felt this end could be best attained by making the barons render service to the crown. While pursuing this policy Philip Augustus was unconsciously opening up an avenue by which the same tendency could work upon the great ecclesiastical nobles. Philip was in no sense inimical to the interests of the Church, but by forcing the lay barons into a closer subordination to the royal will he made it much easier for his successors to apply those same principles to the ecclesiastical barons.[50]

The occasion which brought King John into conflict with the papacy was the choice of an ecclesiastic for appointment to the see of Canterbury. John had endeavored to place in that office his favorite, de Grey. It is significant to note that the king solicited this appointment from the Holy See.[51] He did not make it outright without Rome's consent, though of course his action was tantamount to appointment as far as the English subjects were concerned.[52] It was a quite different procedure from that which the

[49] In 1204 John caused the first seizure of alien priories, confiscating them not as the property of aliens, but as that of traitorous Normans. It is hard to believe, however, that John was not also motivated in this seizure by the added revenue which these priories would give to his treasury for a continuance of the war with France. Cf. New, C. W., *History of the Alien Priories in England to the Confiscation of Henry V*, 45, Chicago, 1916.

[50] Finlayson, Dr., "Jansenism, Gallicanism, and Jacobinism", in the *Dublin Review*, XXXVII (1854), 100.

[51] Matthew Paris, *Chronica Majora*, II, 494. Rolls Series, London, 1872-1873. Matthew Paris, as is fairly well established, certainly betrays an anti-curial bias, although he is our best source for the period covered by his works. Hence his statements are to be accepted with some reserve.

[52] *Ibid.*, II, 494.

Conqueror or his sons would have pursued. They were strong enough to fill the episcopal sees arbitrarily. But since the days of the Conqueror, and particularly just at this time, the power of the papacy had risen rapidly. John was not the equal of William I in strength, while at the same time Innocent III was one of the most powerful of the medieval popes.

The dispute arose in the summer of 1205. The monks of Canterbury, who were the only ones with a canonical right to fill the see, had also put forward a candidate, their sub-prior. Innocent returned the pleas of the two parties with a very just decision. He would take neither appointee.[53] Nevertheless he left the election with the monks, advising them to select Stephen Langton, a distinguished ecclesiastic and a truly remarkable man. The monks elected Langton in accordance with the pontiff's counsel.[54] John refused to accept him.[55] The pope did all in his power to persuade John to relinquish his stand, but to no avail.[56] John would not receive the prelate even though he had been consecrated by Innocent III himself in June, 1207; he expelled the monks of Canterbury from England for following the advice of the pope in the election, upbraided the pontiff for interfering with his rights, and threatened to prevent taxes and tithes from leaving England for Rome.[57] The papacy was moved naturally with a desire to keep its universal prestige intact, but it did not wish to alienate itself unnecessarily from the good graces of the English king, for there was danger from the troublesome situation which had arisen in the empire caused by the civil strifes between Philip of Suabia and Otto of Brunswick, rivals for the imperial crown.[58]

However, John ignored the pope's letters, refused further concessions, and said that Langton would never be allowed to enter his kingdom. The king was to learn that he was not dealing with a

[53] *Ibid.*, II, 513-514.

[54] *Ibid.*, II, 514.

[55] *Ibid.*, II, 517.

[56] *Ibid.*, II, 517-520.

[57] *The Historical Works of Gervase of Canterbury*, II, 98-102, Rolls Series, London, 1879-1880.

[58] Cf. *Cambridge Medieval History*, VI, 44-79, also Carlyle–Carlyle, *op. cit.*, V, 187-234, for the part played by Innocent in the rivalry and strife for the imperial crown.

character the like of which other English kings had entered into controversies with in the past. Innocent III was in a rank by himself. In 1208 he decided upon a drastic move to bring the English monarch to time—the interdict.[59] By this bold stroke society was shorn of its most vital element, the Church; no religious services were allowed, the sacraments were denied the faithful except in times of danger such as the hour of death, and the churches, the focal points of medieval life, were closed to processions and ceremonies of all kinds.[60]

Despite all this John remained adamant and excommunication followed at the end of the first year of the interdict.[61] Meanwhile the king proceeded to take into his own hands all the revenues accruing to the Church and her great offices.[62] He rejoiced in his new-found income, for his treasury was already so badly depleted by the French wars that grumblings were becoming more audible daily against the disastrous failures of the crown. This was a reason why the wealthier classes at first supported the king against the pope, for they were now relieved of some of the heavy taxations which the king had laid upon them.

But in 1212 Innocent appealed to his friend, Philip Augustus of France, to aid him in carrying out the interdict in England, and the pope entrusted that monarch with the conducting of the sentence of deposition of John as king of England.[63] Philip relished the opportunity to intervene and further humble his Angevin rival, and he immediately proceeded to gather an army for the invasion of England. However, it was not so much the rapidity with which Philip of France prepared to execute the pope's request, but the actions of the feudal nobles in England which was the real turning point that ruined John. They had become so utterly resentful of his actions, aggravated by the personal hatred which many of them bore him, and by the heavy exactions for his futile conflicts, that

[59] Wilkins, *Concilia*, I, 519-520.

[60] In this same year, 1208, Innocent III wrote to the bishops of Ely, Worcester, and London, explaining the manner in which he expected the interdict to be carried out. Wilkins, *op. cit.*, I, 526.

[61] *Ibid.*, I, 528.

[62] Matthew Paris, *op. cit.*, II, 522-523.

[63] *Ibid.*, II, 536.

when war again threatened with the French king a large number of them refused to coöperate and King John could not entirely rely upon the confidence of most of the others. This meant the hiring of mercenaries by John, which of course meant more taxes. Therefore they finally made threats of rebellion if the king persisted. John saw the hopelessness of his situation and decided to yield. The pope readily accepted the king's offers and upon condition of his admitting Langton, releasing his prisoners, and refunding the lands and goods of the clergy, the interdict was raised in May, 1213, and peace established between them.[64]

Nevertheless John, painfully conscious of the ever-present danger from Philip Augustus, and the unreliability of his feudal barons, took a far more striking manner in which to show his solicitude for the friendship of Rome. In this same month of May he made England the feudal vassal of the papacy.[65] He gave over the kingdom of England into the hands of the sovereign pontiff as a fief and received it back from the pope as a vassal would receive the fee of a lord.[66] The barons willingly gave their advice and consent to this transfer of the kingdom because it provided them with redress for their grievances to a higher superior than the king, and it was not long before they manifested their reasons for approving their sovereign's action. Unusual as John's act might at first appear it had precedent behind it. The king of Scotland was the vassal of John; John in turn was the vassal of Philip of France for his continental possessions. Peter of Aragon had done fealty to Innocent III in 1204 for his kingdom and John's brother, Richard, had given over his crown to the emperor of Germany and agreed to hold it of him for the payment of a yearly tribute.[67] John had not only put England under the vassalage of the pope, and sworn by an oath of fealty to remain always faithful to his spiritual and now temporal

[64] Wilkins, *op. cit.*, I, 544-546.

[65] Stubbs, *op. cit.*, 284 ff.

[66] Cf. Potthast, *Regesta Pontificum Romanorum*, 4843, I, 422, Berlin, 1874-1875, for letter of acceptance of the kingdom of England and Ireland by Innocent III on November 4th, 1213. Cf. *ibid.*, 4912, I, 428, for letter granting the kingdoms back to John and his heirs as fiefs of the Holy See by Innocent on April 21st, 1214.

[67] Lingard-Belloc, *op. cit.*, II, 330-334.

lord, but he had also in May, 1213 issued a Writ of Summons to St. Albans to all his sheriffs, informing them that they might send four liege men of each town in their domains so that inquiries might be made as to the losses and confiscated property of each of the bishops, and how much was due them.[68] It was clear that the king meant to make the best possible impression upon his ecclesiastical nobles.

The barons, however, were disappointed in their pleas to Rome for exemption from the taxes of the king, as the pope was determined to retain John's good will and he felt, in accordance with the practice of the time, that John was right in levying these excessive taxes when in extraordinary need of such. Fortunately Langton, the archbishop of Canterbury, was a practical man. He was present in England and saw the dangers of rebellion, and he knew that the king's actions were not justified. Therefore he took his place with the barons as one of their wealthiest members and hence one of the most heavily taxed. Langton thereupon called the barons to a Church council at St. Paul's in London in August, 1213 and suggested to them that they use the Charter of Liberties of Henry I as the basis for negotiations with King John.[69] This threw the halo of tradition about their actions.

However, it must be recalled that John now had the pope on his side and could therefore move with greater assurance and authority. He might have succeeded in forestalling the barons' hopes if it had not been for the humiliating defeat at the battle of Bouvines on July 27th, 1214 which completely ruined his cause and made feudal rebellion imminent. The complete loss which he sustained at the hands of the French king at Bouvines annihilated all hope of success for the English monarch. England rose in revolt and there was considerable fighting throughout the next year.

In the midst of this civil strife John tried to detach the clerical order from the revolt by granting an elaborate charter of freedom of elections to all churches, bishoprics, abbeys, etc., the right of electing to clerical offices, large and small, independently of the king, except in those instances where the vacant church or monastery belonged directly to the crown. This was in November, 1214.[70]

[68] Stubbs, *op. cit.*, 276.

[69] Matthew Paris, *op. cit.*, II, 552. [70] Stubbs, *op. cit.*, 288.

However, the king was but playing for time. When, in the summer of 1215, the document later known as *Magna Charta,* which contained the schedule of the barons' demands, was presented to John by a group of the barons for his signature he knew that the last avenue of escape had been closed and that he must accept. This he did on June 16th, without, however, the slightest notion of fulfilling the promises it exacted of him if he could prevent it.[71] In this famous document the freedom of the Church was again reiterated in strong terms, with the free elections to vacant sees, monasteries, etc. assured. Checks upon appeals to Rome were removed, as every man was to enjoy the right of leaving the realm at will. Moreover fines imposed upon clerics for any offence were to be proportional to their lay estates and not their ecclesiastical holdings.[72]

When news of the proceedings in England reached Rome the pope took steps to annul the Charter and excommunicate the leading barons for revolt, claiming that they should have brought their grievances to the Holy See, where they would have been fairly investigated.[73] Innocent could make this demand of the nobles since he was their feudal overlord by right of John's act of fealty for the kingdom of England. But the barons were in no mood for peaceful arbitration and the archbishop, who had been commissioned to carry out the pope's orders of excommunication, evaded the issue by saying that it was a lay matter.[74] The king followed the line of conduct which might naturally be expected of him. He moved for armed resistance. The nobles now invited Louis, Philip Augustus' son, to come to their aid and to receive the crown of England as a reward.[75] That prince readily accepted the invitation and landed in England. With the rising of the nobles in civil revolt and the

[71] Cf. *Statutes of the Realm,* I, 5 ff., London, 1810-1828, for the text of the *Magna Charta.*

[72] Hart, *Ecclesiastical Records of England, Ireland, and Scotland to the Reformation,* 357. Cf. Stubbs, *op. cit.,* 296 ff., for the Church clauses of *Magna Charta* in particular.

[73] Matthew Paris, *op. cit.,* II, 642-645.

[74] Innocent had warned the barons of the action he might take in a letter written to them in 1216, exhorting them to obey the king and threatening them with excommunication if they failed to comply with his wishes. Cf. Thatcher–McNeal, *op. cit.,* 219-220.

[75] Matthew Paris, *op. cit.,* II, 647-648.

invasion of England by a foreign power the situation at first looked hopeless for John, but at last he did gain some ground with the aid of his own superior fighting and leadership and that of a few loyal barons, notably Hubert de Burgh. John was a much better soldier than Louis. However, just as he was beginning to enjoy the prospect of victory he died in October, 1216. Pope Innocent III had died the previous July. John left Cardinal Gualo, William the Marshal, earl of Pembroke, and others of the papal party to be the executors of his will, thereby affording the papacy a dominant position in the government of England during the long minority of John's small son, Henry III,[76]

The end of this reign shows an England much more nationalistic than had been observed before the opening of the century. The reason for this was the loss of the French territories of the English crown, which concentrated the attention of Englishmen upon their possessions at home. Moreover the slow but certain ascendancy of the English language was gradually emerging from the fusion of the old Anglo-Norman combination into something distinct in itself, giving to the native English a national tongue. As for the Church, it now held a distinct predominance in England, which was to last down to the coming of the Edwards in the next century. The papacy had emerged from one conflict with an English king with only a compromise, that of investitures. The second struggle witnessed a victory in the matter of criminous clerks, abetted by the murder of Archbishop Becket. The Church came forth from the third battle of diplomacy completely triumphant, with the English nation her vassal. As Innocent III had enforced his policies upon the continent, so too England felt the force of his genius for governing. This condition of subjection of England to the papacy was to prevail for a long number of years until the seeds of nationalism had grown to fruition in an age when the papacy was no longer supreme in the affairs of the European world.

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[76] Rymer, T., *Foedera*, I, 216, London, 1727-1729. Cf. *Cambridge Medieval History*, VI, 205-251, for Richard's and John's reigns.

CHAPTER III

Papal Exactions

With the advent of Henry III (1216-1272) to the throne a very unsettled condition of affairs prevailed in England consequent to the civil wars of the preceding reign. Therefore the first action to be taken by the administrative officials of the realm was that of quieting the rival factions and effecting their recognition of the boy king. This task fell principally upon the shoulders of the papal legate, Gualo, who had been sent to England in 1216 by Pope Innocent III to protect the interests of King John against the encroachments of Louis of France. Gualo was left as legate in England by Innocent's successor, Honorius III (1216-1227), in order that he might have a direct hand in aiding the pope's vassal to establish his rule and to insure his succession. John's victories just before his death gave the legate greater hope for success in this particular work.[1]

However, when once young Henry had taken the throne it was difficult to retain it for him. There was still much dissension in the ranks of the English barons, some of them adhering stubbornly to the cause of the French prince, Louis.[2] To this opposition the legate replied with a sentence of excommunication for all those who favored the claims of Louis and refused to support Henry.[3] Eventually through his untiring efforts Gualo was able to bring the majority of the barons to accept the young king.

In all the various undertakings set on foot by the legate to restore peace to the kingdom he enjoyed the full support of the papacy. Honorius III wrote on a number of occasions to the king, the legate,

[1] Cf. Turner, G. J., "The Minority of Henry III," 245-258 in *Transactions of the Royal Historical Society*, XVIII (1872), for the work of Gualo.

[2] Cf. Luard, H. R., *On the Relations between England and Rome during the earlier portion of the Reign of Henry III*, 7-11, Cambridge, 1877, for a discussion of the claims of Louis of France to the English crown and the motives of the English barons in inviting him to receive it.

[3] Wilkins, *Concilia*, I, 546.

the barons, and the high officials of the realm, the chancellor and the justiciar, exhorting them to exert every possible effort to render Henry's rule tranquil and orderly.[4] Moreover he addressed himself to the king of France, complaining that his son, Louis, was still fighting against the English king and pleading that this conflict might end.[5] While writing these letters of admonition from the papal court Honorius granted to his representatives in England large discretionary powers to decide issues anent excommunication of those who withheld their support from Henry, the care and tutoring of the young king, collection of taxes from the clergy for the realm, the filling of vacant benefices, and all matters pertaining to the welfare of his royal ward.[6]

Strengthened therefore by the staunch support of the papacy, the good will of the people, and the defeat of the French forces at Lincoln in May, 1217 at the hands of Gualo's army, and by the destruction of the French fleet off Sandwich by Hubert de Burgh, the justiciar, later in the same year, the legate was able to bring the contest to a satisfactory conclusion for Henry. Terms of peace were signed with France in September, 1217 which removed Louis from the scene of English politics.[7] Shortly after the treaty of peace Cardinal Gualo returned to Rome.

The pope acted in this instance in a distinctly feudal capacity. He took steps to maintain order in England because he was anxious to protect and to assure his feudal vassal of an undisputed and peaceful tenure of the crown. In the case of England during these years the pope performed his duties toward his fief just as any feudal overlord would take measures to suppress a rebellion amongst and between his subject knights. This administrative policy during the reigns of Honorius III and of Gregory IX (1227-1241),

[4] Cf. Luard, *op. cit.*, 12-66, for a list of papal letters and decrees addressed to bishops, archbishops, barons, the chancellor, and officials in Henry's behalf, containing pleas for support and admonitions and threats of excommunication if they disobeyed the pope's orders.

[5] *Royal and Other Historical Letters Illustrative of the Reign of Henry III*, I, 529, Rolls Series, London, 1862-1866.

[6] *Ibid.*, I, 527, 532. Also *Brit. Mus. Add. MS.*, 15, 351 fol. 81; 15, 351, fol. 116, cited by Gasquet, F. A., *Henry III and The Church*, 34-35, London, 1905.

[7] Rymer, *Foedera*, I, 221-222.

his successor, was not a usurpation of power. As the feudal overlords of the kingdom, a position granted to Innocent III and his successors by King John's act, they had the right to intervene to protect their interests.[8] Furthermore their action was not considered extraordinary by those most likely to object. It was part of the vast feudal system under which Europe was living at that time. For the popes to have done otherwise in the crisis which confronted Henry III's first years as king of England, would have been a violation of the trust reposed in them. They would have been acting contrary to the principles which guided the order and system of governmental affairs in the Europe of their day.[9]

The remaining nine years of Henry's minority after the departure of the papal legate, Gualo, at the end of 1217, are marked by the struggles between Hubert de Burgh, the justiciar, who had won the naval victory of Dover, and Peter des Roches, bishop of Winchester, who had the custody of Henry. It is almost certain that a second rebellion would have ensued had not Honorius III despatched another legate to replace Gualo in 1218. Pandulph, the new legate, stood between these warring nobles and prevented further trouble by enforcing the order of the pope that no feudal baron should hold more than two royal castles.[10] This act, together with Hubert de Burgh's energetic campaign against Peter des Roches in which he finally forced the latter to quit the realm in 1224, restored order again for a time in England.

[8] Carlyle–Carlyle, *History of Medieval Political Theory in the West*, V, 182-186.

[9] "The position taken up by the pope and his legate in regard to England does not admit of question. The kingdom 'is known to belong specially to the Roman Church,' it forms part of 'the patrimony of St. Peter.' These are fair samples of statements to be found in the papal letters of this period; and this position, moreover, appears to have been unquestioned by those who might be expected to raise objections. The protests of Philip of France and of his son Louis against the right of King John to create the extraordinary situation already referred to, stand alone or almost alone. So far as the English state papers of the period afford any evidence, the claims of the papacy were admitted to their fullest extent. It was the pope's right and duty, either directly or through his legate, to arrange even for the government of the State, and to take whatever measures might seem expedient to secure the peace of the country." Gasquet, *op. cit.*, 35.

[10] *Royal Letters etc.*, I, 121.

The various aspects of the relations which existed between England and the Holy See during the early years of Henry's reign are important for a proper appreciation of that king's attitude toward the papacy after he attained his majority.[11] No less important for an understanding of those relations during the thirteenth century is a knowledge of the gigantic struggle taking place upon the continent between the papacy and the empire. It was contemporaneous with Henry III's rule that this conflict entered its final stage, from which the papacy was to emerge trimphant. On the side of the Holy See there were the Popes Honorius III, Gregory IX, and Innocent IV (1243-1254), all prelates of resolute will, who were intent upon keeping intact the papal supremacy which the German emperors threatened. On the side of the empire was the ward of Innocent III, the Emperor Frederick II (1212-1250), at once one of the most brilliant and unscrupulous rulers of the Middle Ages.[12]

Twice during the reign of Frederick II the pope and the court of the Holy See were forced to flee from the city of Rome before the advances of the emperor. When Frederick was crowned by Honorius III at Rome in 1220 it was only on condition that he undertake a crusade. By a series of delays and excuses the emperor put off the performance of that duty until September, 1227 when he finally left Brindisi for the Holy Land. He was gone only a few days when he returned, giving as his excuse that disease had broken out in his army and forced his return.[13] On September 29th, 1227 Pope Gregory IX issued his first decree of excommunication against the emperor for his failure to live up to his coronation promise. Moreover the pope placed under interdict any locality where the emperor might be present. This was the signal for Frederick to launch an attack of abuse against the papacy, breaking treaties, calling upon the rulers of Europe to aid in abolishing papal tyranny, and rousing the Romans to insurrection so that Gregory IX was forced to flee from the city. The pope renewed the sentence of excommunication at Easter, 1228.

[11] Luard, *op. cit.*, has a good summary of this period of Henry III's reign.

[12] Cf. Carlyle–Carlyle, *op. cit.*, V, 235-317, for the conflict between Frederick II and Popes Honorius III and Gregory IX.

[13] Tout, T. F., *The Empire and The Papacy*, 367, London, 1917.

The sentences of excommunication only infuriated the emperor further and he continued his ravages upon the territories of the papacy. However, in 1230 the contestants arranged a temporary peace at San Germano which was to last for several years, and it was not until 1239 that the next break came over the Lombard League. At this time Gregory renewed the ban of excommunication; Frederick marched on Rome in the following year and made himself master of Benevento. In order that concerted action might be taken against the emperor the pope issued late in 1240 a call for a general council to meet at Rome. In the spring of 1241 a large number of prelates who had embarked at Genoa in answer to the pope's summons were seized by Enzio, the emperor's natural son, and subjected to violent treatment as prisoners of the emperor. This outrage so shocked the aged Gregory IX that he died in August, 1241. The capture of so many prelates made the holding of a general council impossible.[14]

Following the death of Gregory IX the cardinals elected Pope Celestine IV in 1241. He lived only eighteen days. Whereupon there ensued a delay of almost two years in filling the apostolic chair, due to the fear entertained by the cardinals of the emperor's violence. Finally in a meeting at Anagni in June, 1243, Sinibaldo de' Fieschi was elected as Pope Innocent IV.

Frederick immediately demanded that the new pope lift the ban of excommunication which his predecessor had placed upon him. Innocent IV refused until after terms of peace had been agreed upon. This delay on the part of the pontiff to carry out his will roused Frederick again and once more he marched on Rome, forcing Innocent IV and his cardinals to flee to Genoa and thence to Lyons in 1244. From this city Innocent sent out the call for the first Council of Lyons. At this gathering the Emperor Frederick was not only refused his request for freedom from excommunication but was deposed as emperor and ruler of the two Sicilian kingdoms, by a right which the pope claimed to a general *legatio* over all men and matters both spiritual and temporal.[15] A new election to the empire was ordered.[16] Upon this solemn declara-

[14] Tout, *op. cit.*, 385.

[15] Cf. Carlyle–Carlyle, *op. cit.*, V, 306-307, for a discussion of the right by which Innocent deposed Frederick. [16] Tout, *op. cit.*, 386-387.

tion of a full Church council the emperor renewed his warfare upon the papacy and continued it to the year of his death in 1250.[17]

The papacy was the victor in this long struggle, but at a dreadful cost. The forced exile of the papal court, the confiscation of papal territories by the emperor, and the interference with the delivery of tithes and taxes sent to the *Curia* from Christian Europe caused a serious and critical depletion in the revenues of that court.[18] The taxes exacted of the clergy in the countries of Europe by the Roman See became exorbitant during this period of conflict, in which the customary taxes from the empire were lacking. They were especially resented in England where those burdened by these heavy foreign exactions felt too far removed from the struggle to have much vital interest in its outcome.[19] With the revenues from the empire cut off and the papal treasury in debt it was quite natural that the papacy should turn its eyes towards its vassal kingdom in an hour of need. Through the influence and prestige of Pope Honorius III the throne of the English king had been secured for him; through the good offices of Gregory IX, the successor of Honorius, the papacy had given invaluable aid to the young king, by prohibiting tournaments where frequently revolts and conspiracies were fostered, negotiating peace proposals between England and King Louis of France, forbidding Louis to interfere with Henry's overseas dominions, preventing war between Scotland and England by direct appeals to their rulers, allowing the king to employ bishops as counsellors, and giving him the right to be free from

[17] *Ibid.*, 358-392, for a convenient summary of this controversy. Cf. also Carlyle–Carlyle, *op. cit.*, V, 235-317.

[18] "The Holy See came victorious from this terrible conflict, but bore from it severe wounds which were centuries in healing. The Popes had been reduced to the necessity of laying heavy taxes upon the churches throughout Christendom, and this had the effect of loosing the bonds which had heretofore kept Christian nations united to the Holy See. It was claimed that as the contest did not, as in the case of the investitures, concern the freedom of the Church, but seemed to be more directly connected with territorial acquisition, there was no adequate reason why these taxes should be levied." Alzog, *Manual of Universal Church History*, II, 597-598.

[19] Gasquet, *op. cit.*, 125-126.

those oaths made under pressure which had alienated his lands and property.[20]

The unsettled condition of European affairs mentioned above reflected itself clearly in England. Following the departure of the legate Pandulph in 1221 Archbishop Langton secured the promise of the Holy See that no papal legate with unlimited legatine powers should be named for England during the remainder of his lifetime.[21] This promise Honorius III kept. It was under the guise of a special mission that the Holy See sent a legate to England in the fall of 1225 in the person of a papal chaplain, Otho. At an assembly called at Westminster in January, 1226 the legate made known the wishes of the pope. It was the desire of Rome that two prebends in every cathedral church, and the living of one monk in each monastery be reserved for the use of the pope. By this means the Holy See reasoned that scandal, rising out of bribes and presents accepted by the *Curia* in suits of appeal would be lessened, and the Church would be given a permanent source of income for the proper administration of ecclesiastical government.[22] The plan of the pope would likewise satisfy to a certain extent the immediate need of the papacy for revenue. The assembly gave no direct reply to the demands of Otho but pleaded for time since the king and many of the prelates were absent.[23] Meanwhile Otho received orders to return to Rome and left England in the Lent of 1226 without having accomplished the object for which he had made the journey.[24] In May of the same year Cardinal Langton called a council to meet at St. Paul's in London to give a reply to the pope's demands. At this gathering the case of the French bishops at the Council of Bourges in 1226 was reviewed and it was shown that when a similar demand had been made upon their livings by the legate Romanus they had refused to give way.[25] The reply drafted by the council to the pope stated that the English bishops would take no action in the matter until they saw what the clergy upon

[20] Mann, *The Lives of the Popes in the Middle Ages*, XIII, 341-346.
[21] Gasquet, *op. cit.*, 54.
[22] Matthew Paris, *Chronica Majora*, III, 102-103.
[23] *Ibid.*, III, 103.
[24] *Ibid.*, III, 109.
[25] *Cambridge Medieval History*, VI, 269.

the continent would do.[26] Thus this attempt upon the part of the papacy in the direction of reservation of papal provisions met with failure.

Upon the departure of the legate Otho in 1226 the Holy See was not left long without a representative in England to urge its claims. The papal agent, Stephen, was given power in 1229 to collect such revenues as the papal court should see fit to exact of England.[27] In a council gathered at Westminster in 1229 Stephen demanded a tithe on all movable property throughout England, Ireland, and Wales.[28] With this request the barons refused to comply. The clergy were forced to pay the amount because of the danger of excommunication should they refuse, a censure which they feared more than the lay barons.[29] The reason given for this exaction was the devastating effects of the papal wars upon the Roman treasury, and the need of the Church for money in order to preserve her rights against the emperor. This tithe was collected in such a blunt and pressing manner that it aroused considerable resentment on the part of the clerical order.[30]

The indignation felt by the English clergy and barons against this interference upon the part of the papacy made itself evident in a very real way in the fall of 1231 in the anti-foreign movement of that year, which was directed particularly against the foreign ecclesiastics. The first evidence of organized opposition to the foreign element in England appeared late in 1231 when letters were sent to the English bishops and monastic houses by an organization purporting to represent all Englishmen who preferred death rather than continued oppression by the Romans. A long list of grievances against the papacy was cited, and the persons behind the movement declared that their efforts were supported by both the nobles and commons of the realm. The bishops and superiors

[26] Matthew Paris, *op. cit.*, III, 109-110

[27] *Annales Monastici*, IV, 70, (Wykes). Rolls Series, London, 1864-1869.

[28] Lunt, W. E., "Early Assessments for Papal Taxation of English Clerical Incomes", in *Annual Report of the American Historical Association* (1917), 267-280.

[29] Mann, *op. cit.*, XIII, 354.

[30] Marti, O. A., *Economic Causes of the Reformation in England*, 58, New York, 1929.

of monasteries were warned not to hamper the campaign in any manner and urged to coöperate with the leaders by paying over to them rents owed to foreign ecclesiastics. If they did not comply with the wishes of these persons the threat was issued that their property would be destroyed and their persons endangered.[31] These open manifestations of anti-foreign sentiment were inevitable consequences of the numerous papal appointments of foreigners to English benefices.[32]

The distaste shown by Englishmen for the provision mandates of the papacy may in some degree be ascribed to their comparative novelty. Previous to the act of King John in May, 1213, of placing the kingdom under the vassalage of the Holy See, few such provisions had been made in England. But from the time of John there ensued a steadily increasing number of provisions of English benefices to foreigners. The dependence of King John upon the papacy during the last three years of his life, a condition which was continued during the minority of his son, Henry III, created a state of affairs in which it was relatively easy for the Roman See to introduce this obnoxious system into England.

The form which these provisions took was particularly odious. In its effort to collect money from the English Church the papacy ignored entirely any sentiments of patriotism which might be latent in the English clergy and people at this date. Cases were found wherein the donor of a benefice was given orders to exchange a particular benefice for a better one in favor of a foreign ecclesiastic,

[31] Gasquet, *op. cit.*, 132.

[32] "Opposition to certain papal policies had been developing in England for some time before 1231 so that the outbreaks at the close of that year could not have been unexpected. The exaction of a tenth of ecclesiastical incomes in 1229 by papal mandate aroused much resentment among the clergy, especially because of the rigor with which the tax was collected, and many laymen disliked the idea of so much wealth being taken out of the kingdom. Yet objection to papal taxation was after all only a minor cause of the outbreaks of 1231-1232, since the factor essentially responsible for these disturbances seems to have been the granting of English church revenues to foreigners by papal mandate, a practice involving many abuses." MacKenzie, H., "The Anti-Foreign Movement in England, 1231-1232", in *Haskins Anniversary Essays*, 183, New York, 1929.

providing the latter was not satisfied.[33] The papacy even forced English ecclesiastics to furnish foreigners with pensions, stipulating that they were to be exchanged for benefices of equal or greater value when the foreigner became dissatisfied with the pension.[34] The *Curia* also granted benefices upon the death or resignation of one alien to another alien. This practice was so keenly resented that Honorius III was forced to take cognizance of it and decreed in 1221 that when a benefice was given up for any reason the pope would not appoint another foreigner, but allow the patron's rights to be restored.[35] In spite of this decree the difficulty was not permanently adjusted and Gregory IX felt compelled in 1230 to renew it; weakening it, however, by allowing the pope to make exceptions to the rule when he so chose.[36]

The Roman Court added to the feeling of outrage in England caused by these practices by issuing its provisions in the form of demands and orders and not requests. Drastic action was frequently threatened by the papal legates if their wishes were not fulfilled.[37]

But this custom of assigning benefices and pensions to foreigners was not indulged in only by the papal *Curia*. King John and Henry III were accountable for large grants being given to the foreign clergy in the form of pensions for services rendered to the crown. This practice was particularly evident in the case of the papal legates who came to England to transact the affairs of the papacy, and also those of the monarch.[38] These legates frequently performed acts of great service to the king in the administration of his kingdom, the settling of disputes amongst his barons, making peace with other rulers for the English monarch, etc. It was to repay them for their aid that the king resorted to grants of pensions and benefices for them. An unsavory extension of the foreign abuses developed in the form of papal grants of English benefices

[33] *Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland*, I, 92, Rolls Series. London, 1893-1912.

[34] *Ibid.*, I, 125.

[35] *Ibid.*, I, 79.

[36] *Les Registres de Grégoire IX*, I, No. 440. Paris, 1896-1907.

[37] *Cal. of Pap. Reg.*, I, 54, 89, 92, 115.

[38] MacKenzie, *op. cit.*, 185-186, note.

to the relatives of the popes. Thus Honorius III was found granting benefices to relatives,[39] and the cardinals were likewise allowed to provide for their relatives out of English livings.[40] The foreign ecclesiastics beneficed in England served a purpose for the papacy which did not add to their reputation in the eyes of the native English. They were frequently found to be informers, furnishing intelligence to the papacy when a living became vacant in England in order that the pope might make specific demands upon certain benefices.[41] They likewise acted as proxies when foreigners resident outside the kingdom wished to be established in a living without making the journey to England for that purpose.[42] Unfortunately this was the case with a considerable number, for many of the foreigners beneficed in England did not attend upon their livings, and the ministrations of religion were left in the hands of substitutes.

The reasons generally given by the Holy See for this invasion upon the rights of the English Church and its patrons were that the support of the central Church government required it. Many ecclesiastics had given valuable assistance to the pope in the business of the *Curia* and the pope out of gratitude rewarded such services with appointments to these benefices.[43] The papacy was hard pressed for funds, and this system offered itself as a substitute for salaries to its officials.[44]

To return to the campaign against the foreign clergy, we find that in December, 1231 the conspirators demonstrated their resolution of purpose by attacking a group of foreign clerks, capturing one and holding him for a large ransom.[45] Those who escaped the hands of the rioters remained in hiding for fear of their lives. Within a few months the movement spread over many parts of England and in the spring of 1232 a papal messenger was killed and

[39] *Cal. of Pap. Reg.*, I, 59.
[40] *Reg. Greg. IX*, I, No. 946.
[41] *Cal. of Pap. Reg., I*, 115.
[42] MacKenzie, *op. cit.*, 192.
[43] *Ibid.*, 186, note.
[44] *Ibid.*, 186, note.
[45] Roger of Wendover, *The Flowers of History*, III, 19. Rolls Series, London, 1886-1889.

another severely beaten. The papal briefs which they carried were trampled under foot.[46]

Fearing no doubt the effects of this violence when word of it reached Rome the bishops met in a council at London in February, 1232 with a view to putting an end to it. They issued a decree of excommunication against those engaged in the riots.[47] The king likewise, wishing to free himself of responsibility in the matter, attempted to have his sheriffs arrest the disturbers of the peace and disclaimed sympathy with their purpose and ideas.[48] Both of these efforts met with little or no result. When news of these disturbances ultimately reached the papal court, Gregory IX took immediate steps to stop them. He wrote to the king and strongly condemned him for his neglect.[49] He also addressed himself on the subject to the English clergy, telling them they were ungrateful for the favors done on their behalf by the Holy See and demanding that they act immediately against the rioters, first by persuasion and then by excommunication if that became necessary.[50]

Pope Gregory IX moreover ordered a special commission to England to see that his demands were carried out, instructing it to conduct investigations and report the guilty to Rome.[51] The commission proceeded to England, where the investigation was carried out and a general sentence of excommunication issued. The names of those found to be guilty of participation in the riots were forwarded to Rome.[52] Henry, wishing to coöperate with the wishes of the sovereign pontiff and the work of the investigating commission, ordered his sheriffs on May 8th, 1232 to have inquiries made and summoned reputable men to give sentence under oath to discover the guilty. Those apprehended were to be kept confined until the king summoned them, or provide guarantees that they would appear when called. The investigations revealed so many offenders, among them Hubert de Burgh, the justiciar of the realm, and other high

[46] *Annales Monastici*, III, 128, (Dunstable).

[47] Roger of Wendover, *op. cit.*, III, 19.

[48] Matthew Paris, *Historia Anglorum*, II, 338. Rolls Series, London, 1866-1869.

[49] Rymer, *Foedera*, I, 322-324.

[50] *Reg. Greg. IX*, I, No. 808.

[51] Roger of Wendover, *op. cit.*, III, 28.

[52] Matthew Paris, *Chronica Majora*, VI, 72.

men of state that a wholesale punishment was found inadvisable. The majority of the offenders were leniently dealt with by both the pope and Henry,[53] though Hubert de Burgh was removed as justiciar and later arrested and imprisoned. Others were expelled from the royal council and a number of sheriffs arrested and thrown into prison.

Following this striking manifestation of resentment on the part of the English people as a whole, for many clerics were found to be sympathetic to the cause of the rioters, Gregory IX moved in July, 1223 to make the practice of papal provisions less objectionable. He promised that papal agents who had been given power to provide foreign or native ecclesiastics with benefices, were not to suspend members of the English clergy from their right to bestow livings without special authorization of the pope. He further decreed that no benefice of which a layman was patron should be granted in the future without the latter's consent. He likewise sought to limit the holdings of the most notorious pluralists and ordered Ruffinus, one of those most richly endowed, to content himself with benefices which would assure him a revenue of two hundred marks,[54] and to turn back the other livings he held to their patrons. Gregory expressed himself as grieved at the abuses which had occurred.[55] Although the abuses which this movement sought to redress were not ended by the action taken by Gregory IX, the movement itself did furnish a temporary check upon Roman appointments in England, and what is more important it gave evidence that English nationalism was already developing.[56]

[53] *Ibid.*, III, 612-614.

[54] 1 mark = about 2/3 of a pound sterling. Therefore the revenue from such a benefice would equal about 130 pounds in modern English money.

[55] *Cal. of Pap. Reg.*, I, 130, 132, 140.

[56] "Yet except for the concession made to secular patrons the reforms ordered by the papacy were very minor in character. Most of the foreign pluralists seem to have been allowed to retain their benefices undisturbed, and any concession made to the English clergy could always be nullified by the insertion of a *non obstante* clause in a provision mandate. Provisions continued to be made to foreigners as before, and they were to remain an ever present grievance for Englishmen. . . . While the anti-foreign movement of 1231-1232 failed to secure the ends at which it aimed, it is none the less of considerable significance in English history. The exist-

An attendant evil which grew out of the levying of papal taxes in England was the presence of the Italian bankers. These *mercatores,* as they were called, appeared in England around 1235. They were always at hand with money to loan when a new tax or exaction was issued from Rome. By their usurious practices, exceedingly high rates of interest, and the rigor with which they pressed their contracts they excited an unusual amount of hatred and criticism amongst the English clergy.[57] Unfortunately we find the popes in many cases protecting and defending these money lenders, even against the protest of the clergy, king, and lay barons.[58] The popes frequently brought pressure to bear upon the ecclesiastics lest they deprive the *mercatores* of sums they had borrowed from them to meet the papal tax.[59] From the time of Pope Alexander IV (1254-1261) the papacy almost invariably employed these bankers to transmit money due to them from England.[60] In many cases the *mercatores* engaged in dishonest practices, usury and even actual stealing of sums committed to their care. Yet despite the protests which the English bishops raised against such actions, for usury was reckoned a sin, the bankers could appeal to the Holy See and be relieved of punishment.[61] The *mercatores* were so efficient in providing the means whereby the papacy might collect its taxes in England that the popes were loath to take action against them. Though grave resentment was felt against them in England their

ence of an organized movement to end the alienation of English church revenues to foreigners, the readiness to resort to violence to attain this object, and the sympathy displayed for the rioters by so many Englishmen, mark a crisis in the relations of England and Rome. . . . It is also possible to see in this movement the beginnings of a spirit which might almost be called national in character. When members both of the clergy and laity united to resist the pretensions of what was felt to be a foreign power they were beginning to act together as Englishmen. Of course the part played by the anti-foreign movement of 1231-1232 in the development of English nationalism should not be overstressed, and yet it had a significance for this development which ought not to be disregarded." MacKenzie, *op. cit.,* 202-203.

[57] Mann, *op. cit.,* XIV, 244.

[58] *Registres d'Innocent IV,* I, No. 42. Paris, 1884-1897.

[59] *Cal. of Pap. Reg.,* I, 124, 309.

[60] Rymer, *op. cit.,* I, 568 ff.

[61] Marti, *op. cit.,* 35.

corrupt practices continued unabated well into the second half of the thirteenth century.[62]

In June, 1237 Otho, now as cardinal, entered England for a second time upon a special mission in the interests of the papal-imperial conflict. His advent was most unwelcome and demonstrations were held against him at Oxford and London, the menace of which caused the legate to appeal to the king for protection.[63] Nevertheless before his return to the *Curia,* in January, 1241, Otho was able to take large sums of the yearly revenues of the English clergy for the papal exchequer.[64] Moreover one-fifth of the incomes of the foreign clergy beneficed in England was also devoted to the coffers of the Holy See upon the demand of Gregory IX in 1239 for a renewal of the war upon the emperor.[65] In the following year the pope wrote to the archbishop of Canterbury and the bishops of Lincoln and Salisbury, requesting provisions for three hundred Romans in the first vacant benefices in their dioceses. Gregory ordered that no benefices should be filled by anyone else until that number had been provided for the foreign ecclesiastics. Otho, being legate at the time, quite naturally had a hand in the filling of these livings.[66] It was with a feeling of considerable relief that the English people witnessed the withdrawal of Otho in the early days of 1241.[67] From the departure of Otho until the coming of the next papal legate, Master Martin, in 1244 two papal clerks administered the affairs of the papacy in England. These two clerks, Peter le Rough and Peter de Supino, continued the practice of collecting heavy taxes and issuing excommunications.[68]

Early in 1244 Pope Innocent IV found himself in grave need of money to meet the financial obligations contracted by his predecessor, Gregory IX, and to continue the papal-imperial war. In order to satisfy these demands upon the papal exchequer he despatched

[62] *Ibid.,* 31-35, for a detailed account of the practices of the Italian bankers.

[63] Matthew Paris, *Chronica Majora,* III, 395-396.

[64] *Ibid.*. IV, 84.

[65] *Ibid.,* IV, 9-11.

[66] *Ibid.,* IV, 31-32.

[67] *Ibid.,* IV, 84.

[68] *Ibid.,* IV, 137, 160.

Master Martin to England with orders to levy a tax of ten thousand marks upon the English clergy. This demand was met with a determined refusal.[69] Failing in this direction Martin next turned his attention to the vacant benefices, filling them with the relatives and favorites of the pope, exacting presents and gifts of each monastery, presumably to be used for the papal wars, and urging the payment of the tribute money promised by King John.[70]

So rigorously did Martin pursue his task that the whole English nation was aroused against him. Even the king showed a spark of anger and ordered the agent out of the kingdom "with a passport to hell."[71]

However, this demonstration was no indication of a permanent change of feeling on the part of the king, for just a short time previous to this act Henry had given way before pressure from the pope's representative. The barons expected so little resolution on the part of Henry that they took it upon themselves to watch the seaports and prevent the introduction of papal letters into the kingdom. They had seized a papal collector at Dover in 1245, confiscated his letters, and imprisoned him in the castle. But the king had freed the agent and allowed the letters to be turned over to the nuncio upon the protest of this same Master Martin.[72]

The reasons assigned by Innocent IV for his oppressive financial policy in England were that Emperor Frederick had reduced the Church revenues by the seizure and ravage of its territories and the plunder of those who were bringing money to the *Curia*. Gregory IX's heavy loans for continuance of the war with the empire had plunged the papal treasury into great debt. The legacy of that debt was left to Innocent IV. Moreover he was forced to flee from Rome before the advance of the imperial forces and take up residence in a foreign land. The ever-growing business of the papal court and the centralization of Church government necessitated new offices, which of course added to the expenses of the *Curia*. The day had long since passed when the patrimonies of the Church could support her, and even some of this territory had been lost in the confusion of the tenth century and some of it by confiscation to the

[69] *Ibid.*, IV, 368-369.
[70] *Ibid.*, IV, 379 ff.
[71] *Ibid.*, IV, 420.
[72] *Ibid.*, IV, 417.

hands of Frederick II. Furthermore, as king of Germany, Jerusalem, and the two Sicilies, Frederick could prevent revenue from coming to the pope from any portion of the empire. Moreover tribute money from vassal states was frequently delayed, or left unpaid as in England's case. In 1246 and 1247 we find Innocent reminding Henry III that the payment was past due.[73] The revenues from the monasteries, churches, and estates which were exempt from jurisdiction of the ordinary were oftentimes delayed likewise. At best these amounts were not large. The papacy was not anxious to increase the number of these exempt houses, for it engendered bad feeling amongst the local bishops and clergy.[74]

At this time, 1245, Innocent IV was living at Lyons in France, where he had fled from the invasion of Emperor Frederick. As has been stated the pontiff used this compulsory exile as a cause for further taxation, claiming that the exactions were necessary for the preservation of religion.[75] While the English clergy had given generously to the cause of the crusades, they felt that the present struggle between the pope and the emperor was not sufficient justification for the oppressive taxes placed upon the English Church. With that idea in mind the English representatives answered the call of Innocent IV to the First Council of Lyons in the early summer of 1245. At this council the English barons, led by William of Poweric as their spokesman, and the bishops with the illustrious Grosseteste, bishop of Lincoln, at their head, took the opportunity to make their grievances known to the pope and the assembled prelates. They maintained that while the emperor was under the condemnation of the pope he had offered to submit their quarrel to the decision of a general council, and since he was still a Catholic prince the English representatives did not feel that they were compelled to supply funds for a warfare upon him. Moreover though they recognized the supremacy of the Apostolic See, yet it must be admitted that each church was forced to live upon its own patrimony. Therefore while they recognized the spiritual supremacy of the Holy See they believed that the Roman Church should support itself, and not make invasions upon the patrimony of other branches of the

[73] Rymer, *op. cit.*, I, 442.
[74] Mann, *op. cit.*, 234 ff.
[75] Lingard–Belloc, *op. cit.*, II, 414.

universal Christian body. The pope's supremacy gave him the right of superintendence but not of possession of property. On the other hand, it was the duty of the Holy Father to protect the property of the filial churches rather than to permit ravages upon their possessions, for if any surplus were left above the expenses necessary for conducting the affairs of the daughter church those funds should be used by her for the relief of the poor, and not for furnishing money to continue a destructive war.[76]

The pope refused to make a direct reply to their grievances but spoke of his own inability to exist without these revenues, and also his reluctance to exact them.[77] Provoked by the equivocation of the pope's reply the English delegates left the council in a very ugly mood.[78]

Despite the weakness of the reply of Innocent there were issued from the Council of Lyons several decrees which doubtlessly reflected the seriousness with which the pope had entertained the English complaints. In a decree of that council it was proclaimed that legates had no power in virtue of their office to confer benefices, and that excommunications were not to be pronounced without due consideration nor without the fulfillment of various formalities.[79] Moreover in a resolution addressed by the pope to the English holders of livings, both clerical and lay, he annulled the suspensions of patrons' rights of presentation issued by Master Martin, except in special cases which were not to be more than twelve in number, and restored to patrons of livings their powers of collation.[80] He also reduced the subsidy of ten thousand marks asked for in his behalf by Martin to six thousand. Further, if a person to whom a provision had been granted took a living worth more than five marks in excess of what had been granted then the whole grant became void.[81] The exceptions, however, and the necessities of the hour often prevented these decrees from enjoying their proper fulfillment.[82]

[76] Matthew Paris, *op. cit.*, IV, 441-444.
[77] *Ibid.*, IV, 444-445.
[78] *Ibid.*, IV, 478-479.
[79] *Ibid.*, IV, 462, 467.
[80] *Ibid.*, IV, 519-520.
[81] *Ibid.*, VI, 133.
[82] "Unfortunately these decrees remained inoperative either on account

Meanwhile conditions were anything but satisfactory in England. The Council of Lyons had commanded the payment of one-twentieth of the clerical incomes for three years as an aid to the Holy Land. This was to be a universal tax throughout Christendom. Innocent IV urged Henry to allow the collection of this sum, and gave promises that he would attempt to correct the abuse of provisions in the English Church.[83] While the justice of this tax was not severely challenged the internal conditions in England did not make its collection an easy task.

As an example of the evils growing out of provision of foreigners in England there is the case at this time of the archbishop of Canterbury. In 1240 Boniface of Savoy, an uncle of the English queen, had been elected to that high office. This election was confirmed by the pope in 1245 but it was not until almost nine years after his election, in 1249, that he was able to take his see. Boniface personifies all the evils attendant upon the provision of foreign ecclesiastics to English livings. He was greedy and avaricious and used the most arbitrary methods to enforce his wishes upon the subjects in his province. He earned for himself the hatred of all his suffragan bishops, and his rule as archbishop was marked by one long series of quarrels and controversies. The appointment of Boniface as archbishop serves as an illustration of the difficulties encountered by the selection of a foreigner for an English ecclesiastical office.[84]

Little genuine relief was forthcoming from the papal court for the abuses of which the English complained. In 1246, the year after the Council of Lyons, the clergy and lay barons sent another list of grievances to Innocent IV, appealing from him to the next general council if he did not redress their wrongs.[85] Innocent gave little heed to their complaints and the messengers returned to England with no more satisfactory answers than had been obtained the previous year. And moreover little help came from Lyons through the remainder of the pope's residence in that city. He moved back to Rome upon the death of the emperor in 1250.

of the issue of fresh grants by the Pope containing the clause: 'notwithstanding' previous concessions, or because they were set aside by the papal agents." Mann, *op. cit.*, XIV, 254-255.

[83] Rymer, *op. cit.*, I, 441-442.

[84] Marti, *op. cit.*, 39-42.

[85] Matthew Paris, *op. cit.*, IV, 533-534.

Shortly before the pontiff's return to Rome the English clergy once more addressed themselves to Innocent IV. This time their difficulties were intrusted to the capable hands of the bishop of Lincoln, Grosseteste, a man who had already gained for himself an enviable reputation as a disciple of Church reform.[86] On this occasion the English clergy had the example of the protest of the French king before them, a protest which had been filed with the *Curia* in May, 1247 by an embassy sent to Lyons.[87] Grosseteste was most faithful to the supremacy of the See of Peter, but he did not hesitate to criticize when he considered that Rome was tolerating abuses. The statement of these evils, which was written out, was read before the cardinals at the order of the pope, and it was certainly a stinging indictment of the status of Church affairs. The statement had been occasioned by the increasing evils caused by the continuance of papal abuses. The determined and fearless stand of the bishop had its effect upon Innocent, for in May, 1252 he was found granting permission for all the patrons of benefices in the possession of foreigners in England to present to them immediately, and declared that such persons appointed might take possession immediately upon the death or resignation of the incumbents of these offices.[88] Grosseteste did not confine his opposition to words, and when the pope endeavored to place his nephew, Frederick of Louvain, in one of the benefices of the diocese of Lincoln in January, 1253 the bishop positively refused to give over the living to the foreigner. When the pope learned of Grosseteste's attitude he was very angry and contemplated rigid punishment for the bishop. The prudence of his cardinals, however, restrained Innocent.[89] The controversy over provisions remained in pretty much this state to the end of Henry III's reign.

At this point of the differences between the papacy and England it is necessary to take cognizance of the position of the king. Henry III was from the very first dependent upon the papacy for a continuance of his rule. Having ascended the throne as a boy of ten years the real government of the kingdom had rested in the hands of the pope's legates during the years of his minority. Moreover

[86] *Ibid.*, V, 97-98.
[87] Gasquet, *op. cit.*, 234-238.
[88] Mann, *op. cit.*, XIV, 264-265.
[89] Gasquet, *op. cit.*, 337-338.

the Holy See had rendered invaluable service to young Henry even after he attained his majority.[90] The king himself was pious, but very weak, and after he began his personal rule it was not long before he had himself surrounded with favorites who battened off the livings of the best offices in the land. Moreover he was almost always subservient to the exacting demands of the Holy See upon English finance. While Hubert de Burgh remained as Henry's justiciar he exercised a restraining influence upon the king's generosity to the Roman *Curia*. But with the fall of de Burgh in 1232, following the investigation of the anti-foreign riots of that and the previous year, that restraint was removed.[91] De Burgh had saved England from financial bankruptcy to which the exactions of Rome in part almost led it before the end of Henry's rule. The papacy was happy to see de Burgh's removal, for it was felt that he had restrained the collection of taxes by his tolerance of the anti-foreign demonstrations.

Without the steadying hand of de Burgh the king was not long in showing his inability as a ruler. In 1242 he made a vain effort, contrary to the better judgment of the majority of the barons, to regain the French possessions lost by his father. At the battle of Taillebourg he suffered a severe defeat at the hands of Louis IX (1226-1270) of France in an effort to recover Poitou. The barons had refused the king the grant of a subsidy for this war in the early days of 1242.[92] The feeling was general that the king should be able to support himself from his own income and not be constantly taxing his feudal lords.

The baronage had lost confidence in Henry's ability to act consistently for the welfare of the kingdom. It was only on rare occasions, for example, that he made any show of spirit against the heavy exactions of the papacy. One was the instance of his demand that Master Martin, the papal collector, leave the kingdom and cease his unjust practices. But even here the king finally provided an escort for Martin to leave the realm.[93] Again in 1244 Henry became incensed when a new agent arrived in England armed with extraordinary powers of excommunication and suspension. The

[90] Cf. 52 of this study.
[91] MacKenzie, *op. cit.*, 200-201.
[92] Matthew Paris, *op. cit.*, IV, 181 ff.
[93] Gasquet, *op. cit.*, 226.

king interposed his prohibition. He not only commanded the ports to be closed against nuncios of the pope but ordered any man presuming to levy contributions on the authority of his papal briefs to be seized and imprisoned.[94] This show of force rapidly gave way, however, before the objections of the Holy See. In the summer of 1247 Henry had made the promise of a crusade to Pope Innocent IV, a promise that never should have been given with the state of the realm such as it was at that time. He secured the permission of Innocent to levy taxes upon the clergy for the venture, but Henry's intentions lacked the force to bring them to reality.[95] Another example of the weakness of Henry occurred in 1259 when he used the great seal to write letters admitting Velascus, a papal representative, who was appointed by Pope Alexander IV to investigate the case of Aylmer, bishop of Winchester. The barons had opposed Aylmer and forbidden the entrance of the papal clerk. The king used the opportunity of the chancellor's absence to secure the great seal from Merton, a clerk, and go counter to the wishes of the nobles by admitting Velascus to the kingdom.[96]

All these various factors contributed to make the condition of the kingdom most unsatisfactory, and it is indeed small wonder that the rest of Henry's reign is one long series of civil wars and strifes. The Charter had been confirmed time after time by the king, only to be broken as soon as the opportunity presented itself.[97] Henry renewed it with all the pomp and solemnity surrounding such a ceremony, but his favorites were quick to assure him that he was not bound to observe its mandates, since they had been forced upon him against his will.

The crowning episode in the foreign policy of Henry III's reign, and an event which was destined to have a profound effect upon the internal policy of the realm, came in 1254. After the death of Emperor Frederick II, the pope had declared the throne forfeited

[94] Hart, *Ecclesiastical Records of England, Ireland, and Scotland to the Reformation,* 14.

[95] Gasquet, *op. cit.,* 276.

[96] Trehame, R. F., "An Unauthorized Use of the Great Seal in 1259", in *English Historical Review,* XL (1925), 403 ff.

[97] Green, J. R., *A Short History of the English People,* xxiv, New York, 1896. The Charter was confirmed in 1216, 1217, 1223, 1225, and 1237.

by the Hohenstaufens. He regarded Sicily at this time as having reverted to its former lord, the pope. As a fief of the Holy See therefore he wished to confer it upon a prince willing to hold it for the papacy. Innocent offered the Sicilian crown to Richard of Cornwall, brother of Henry III, and to Charles of Anjou, brother of Louis IX of France. When neither of these princes would accept it, Innocent made the offer to Henry of England in the interests of his son, Edmund.[98]

Henry immediately saw an opportunity of establishing his rule upon the continent and speedily accepted the offer.[99] Pope Innocent IV died in December, 1254, and was succeeded by Alexander IV (1254-1261), who confirmed the kingdom of Sicily to Edmund of Lancaster, the king's son, in April, 1255.[100] However, Henry's dream came to naught. Such a scheme meant another great outlay of money for an army to go to southern Italy to fight Manfred, the natural son of Frederick II, who had laid claims to Sicily. This the barons of England absolutely refused to allow.[101] They would furnish no revenue for this visionary plan of Henry.

The king found himself in a very serious situation by this refusal. He had obligated himself and his kingdom for the cost of the pope's wars fought in behalf of Sicily.[102] In order to meet his obligations therefore he had to turn to the clergy. Rome had allowed Henry to levy a tithe upon the clergy for financing the Sicilian adventure. The clerical order resented this taxation given without their consent and drew up a petition, which they sent to Alexander IV in 1255, objecting to it. They contended that when taxation of this kind was placed upon them such could not be granted without their consent. Moreover they complained concerning the new valuations on property and the king's simplicity in binding the nation to agreements about which it had never been consulted.[103] In October, 1255 a council was convened at London by the papal collector,

[98] Matthew Paris, *op. cit.*, V, 457.
[99] *Ibid.*, V, 457.
[100] *Annales Monastici*, I, 339-340, (de Burton).
[101] *Ibid.*, III, 200, (Dunstable).
[102] Matthew Paris, *op. cit.*, V, 470.
[103] *Annales Monastici*, I, 360-361, (de Burton).

Rostand, with a view to getting the clergy to consent to the tax.[104] No action was taken by the churchmen in that meeting. Still another council met in December of that year but again there was no agreement. A postponement was allowed until January, 1256, but out of this session no acceptable plan could be devised, and appeal was made to Rome. Alexander IV returned word in June that the clergy must pay a tax on their manors and baronies.[105]

Throughout the remainder of that year and during the first part of 1257 Alexander kept writing to Henry and to Rostand, his collector, and to the English bishops, urging them to send him the revenues for the Sicilian campaign, and particularly the repayment of the large sums he had already spent on it, which Henry had promised to pay, and which had left his treasury impoverished and robbed him of the good will of his friends from whom he borrowed the money.[106] In the early part of 1257 another special nuncio, Archbishop John Colonna of Messing, appeared in England. He attempted to persuade the clergy gathered in council at Westminster in April that they should support the Sicilian war, but he could not convince them. The expedition was too expensive, the distance was too great, and the king had to deal with too many powerful enemies to gain this prize. Such were the reasons advanced by the clergy for their refusal.[107]

Upon this demonstration of resistance the king began to grow a bit doubtful about the whole adventure and forbade Rostand to continue repaying the *mercatores* out of the tithes and other sources coming in to the collector. Henry ordered him to deposit the money in the New Temple and leave it there. This action brought a strong letter of protest from the pope, who commanded Rostand to go on paying the bankers as before.[108] In June, 1257 Rostand was sent from England by the king to arrange a special commission to visit the pope in the interests of the Sicilian business in an attempt to get better terms. Rostand secured the appointment of himself and a certain Master Arlot as envoys to England, and the

[104] Matthew Paris, *op. cit.*, V, 524 ff.
[105] Rymer, *op. cit.*, I, 595.
[106] *Ibid.*, I, 593-594.
[107] *Annales Monastici*, I, 387-388; 390-391, (de Burton).
[108] Rymer, *op. cit.*, I, 624.

pope agreed to arrangements for discharging the king's debts with an extension of time within which Henry had to fulfill his obligations relative to Sicily.[109] Rostand and Arlot came to England in the beginning of March, 1258 and urged Henry to take up again the matter of the Sicilian campaign.[110]

Meanwhile the anger of the barons and clergy toward the procedure of the king had begun to crystallize. The clergy met at the call of Archbishop Boniface of Canterbury at Merton in June, 1256 to seek aid in their difficulties. The barons met in the same month at Oxford. The clergy passed articles which stated the grievances of the clerics against prelates being summoned before secular tribunals in purely ecclesiastical affairs, the intruding of clerks into parishes and benefices by laymen, laymen and secular courts freeing imprisoned excommunicated persons, and the infringement of the king upon the liberties and privileges of the prelates. They likewise issued threats of excommunication against those found attacking property which belonged to the Church, destroying the possessions of clerics, and encroachments upon ecclesiastical liberties.[111] The barons at their meeting expressed their grievances against the arbitrary conduct of the king, his violations of the *Magna Charta,* and his favoring of foreigners; and they insisted that the fortresses of the realm be left in the hands of Englishmen alone. Moreover they appointed a committee of twenty-four to govern the conduct of the country's affairs. A committee was likewise appointed for the amending of the condition of the Church. The decrees of this meeting of the barons are known as the Provisions of Oxford.

The committee of the barons appointed for the reform of the Church wrote to Pope Alexander IV, offering their homage and suggesting that he modify the conditions under which he had granted the Sicilian throne to the king, because as it was England could never hope to fulfill his promise. Among other things the barons solicited the appointment of a legate to aid in adjusting the Church affairs, and the annullment of Aylmer's appointment as

[109] *Ibid.,* I, 650, 652, 656.

[110] Matthew Paris, *op. cit.,* V, 672-673.

[111] *Annales Monastici,* I, 411-425, (de Burton).

bishop of Winchester, who had given offence to them.[112] The pope refused the request of the barons for a legate, giving as his reason that he wished to be better informed about the different matters in dispute before he was willing to spare one of his few cardinals for such a mission. He likewise refused their request of the removal of Aylmer, since there was no advocate at the papal court to present the bishop's case.[113] Although the pope himself consecrated Aylmer as bishop of Winchester and sent him to England to take his see he died en route. His death removed the source of this particular difference between the barons and Rome.

The nobles wrote again to the pope, this time complaining about provisions and their abuse. The king had also written on the same subject in January, 1260.[114] Alexander, however, answered their complaints by saying that he was not the cause of these abuses, nor should he be considered the one to cure them.[115]

Alexander, being displeased by the barons' charge making him responsible for the ecclesiastical abuses in England, gladly freed the king from the stringent measures imposed upon him by the Provisions of Oxford, when Henry appealed to him early in 1261 for freedom from the oath which bound him to these Provisions. Alexander's contention was that since the king was a vassal of the Holy See he had no right to take an oath of such importance without the consent of the pope and the cardinals; moreover it was one administered by force, which rendered it void.[116] Alexander was very careful, however, to add a proviso that ordinances contained in the Provisions which guaranteed the liberties of the Church were not to be considered void.[117] The pope likewise issued bulls to the archbishop of Canterbury and others in April, 1261, directing them to absolve those who had taken the unlawful oath and urging them to compel the barons to obey the king.[118] The successor of Alexander, Urban IV (1261-1264), confirmed in February, 1262 the

[112] Matthew Paris, *Addimenta*, 400-410.
[113] *Ibid.*, 410-416.
[114] *Royal Letters etc.*, II, 145-147.
[115] *Annales Monastici*, I, 487-491, (de Burton).
[116] *Ibid.*, IV, 128, (Wykes).
[117] Mann, *op. cit.*, XV, 88.
[118] *Ibid.*, I, 722-723.

absolution granted by Alexander to Henry and his family from the oath of the Provisions of Oxford.[119]

Following the promulgation of these articles there ensued a bewildering series of internal quarrels, commonly called the Barons' Wars. Powerful factions developed, one led by the outstanding noble, Simon de Montfort, another by the earl of Gloucester. The king meanwhile was hard pressed by circumstances and became embroiled himself in these quarrels and intrigues. Wearied at last by the long and exhausting struggle both parties agreed to refer their dispute to Louis IX of France for settlement in September, 1263. In the following January Louis returned his decision which was adverse to the cause of the barons. Louis gave his answer in favor of royal rather than feudal rule in England. His decision bore the title of the *Mise of Amiens.*[120] Pope Urban IV promptly confirmed the decision of the French king in favor of Henry.[121] The decisions of Louis and Urban are to be looked upon in the light of the feudal law of that period. Both were the suzerains of Henry. Quite naturally they would decide in favor of their vassal against those who were regarded as traitors to his government.[122]

The decision of Louis IX did not end the conflict between the baronial and royal parties in England. On the contrary it only opened a new phase in the struggle. Therefore in order to bring the warring factions together again Pope Urban despatched Cardinal Guy Fulcodi in November, 1263 to England as his legate. Before Guy could reach England the forces of the king and the barons had clashed and the king, with his brother, Richard of Cornwall, had been made prisoners after the battle of Lewes in May, 1264. Simon de Montfort was supreme. Urban had appointed Fulcodi as legate in November, 1263. Now the barons themselves consented to have him act as one of the arbitrators between them and the king. For this purpose they made the king subject to the legate's jurisdiction. Guy, however, was not to be won over so easily. He had been delayed in his journey to England by the Guelph and Ghibelline troubles in Italy and had sent messengers on to England, announcing his early arrival there. These messengers returned word that they were ill-treated in England and that

[119] *Ibid.*, I, 742.
[120] Rymer, *op. cit.*, I, 776-778.
[121] *Ibid.*, I, 781-782.
[122] Mann, *op. cit.*, XV, 189.

the cardinal himself would not be welcome. The barons wrote directly to Guy that they had changed their minds about receiving him and that further they had determined not to allow any bishops to go to him unless it was agreed by all parties that they should publish no decree inimical to the interests of the nation. Nevertheless despite these qualifications they decided to allow him to meet English representatives at Boulogne or some other French seaport.[123]

In a reply Cardinal Fulcodi ridiculed the idea of a pope not being able to send a legate to England unless he was asked to do so, but agreed to meet at Boulogne anyone sent to confer with him. King Henry meanwhile forwarded the terms of peace to which he had been forced to set his signature by the barons. Fulcodi termed them wholly subversive of papal and royal authority, refused to ratify them, and blamed the bishops for having accepted them.[124] The bishops appointed to meet the cardinal had also communicated with him in order to inform the legate that they were delayed in England by threats to their lives and property. They declared that as far as ecclesiastical censures were concerned they were helpless, for these were no longer "feared in the customary manner." Finally in mid-September the bishops of London, Worcester, and Winchester, the justiciar, Hugh le Despenser, and a few other nobles crossed to Boulogne. After repeated attempts at agreement the two parties were forced to acknowledge the failure of a settlement. Their political viewpoints were too divergent. Guy then excommunicated Simon de Montfort and his adherents.[125] Knowledge of the excommunication was slow to reach England, for the bull was seized by the port authorities upon arrival and thrown into the sea. Although on November 18th, 1264 the barons made a last effort to pacify the legate it was in vain.[126]

England continued to suffer from civil war until in August, 1265 at the battle of Evesham the great Earl Simon was killed. Eng-

[123] Mann, *op. cit.*, XV, 192-193.

[124] Stubbs, *op. cit.*, 412, contains the terms of peace.

[125] Rymer, *op. cit.*, I, 798-800.

[126] "The cardinal, as representing Henry's suzerain, the Pope, who resolved to stand by his chief vassal, looked upon the controlling barons as rebellious subjects, who were false to their liege lord. And he was

land was without an actual ruler, for the king and his heir were imprisoned. But with Simon's death the civil war came gradually to an end; the king was freed, and the prince departed on crusade.

During the interval between the meeting of Fulcodi and the English bishops at Boulogne and the death of Simon de Montfort, the cardinal had been elected Pope Clement IV (1265-1268) to succeed Urban IV. When the new pope learned of the victory of the king's forces at Evesham and the death of Montfort he begged the king to be merciful to the vanquished nobles and to allow them to return to their estates.[127] In May, 1265 Clement appointed a legate to England in the person of Cardinal Ottoboni.[128] Ottoboni landed at Dover late in October, 1265, and one of his first acts was to remove the interdict from the city of London. He next suspended the episcopal supporters of Montfort, the bishops of London, Lincoln, Winchester and Chichester.[129] Then in the Award of Kenilworth Ottoboni had a committee of twelve, eight barons and four bishops, appointed as a board of review for the cases of the defeated nobles. The legate himself acted as one of the supreme referees in cases of disagreement amongst the committee members. The Award drew much criticism from those who held lands of the vanquished barons, since the latter could redeem the lands by payments varying in proportion to their offences. Ottoboni also granted to Henry III one-tenth of his ecclesiastical revenues for three years to aid him in his weakened financial condition. The cardinal had the approbation of Clement IV for this concession.[130] This decision caused much discontent in England but the complaints availed not and it was duly executed. The legate next brought about peace between Henry III and Prince Llewellyn of Wales, the latter being secured in his property and the title of prince of Wales, but was forced to do homage to Henry.[131]

After proclaiming his 'Constitutions' at the Council of London, in April, 1268 where reforms were again urged regarding residence

confirmed in his view when he found it was shared by France, and even by other 'parts of Europe such as Brittany, Guienne, and Spain.'" Mann, *op. cit.*, XV, 198.

[127] Rymer, *op. cit.*, I, 828.

[128] *Cal. of Pap. Reg.*, I, 426.

[129] *Annales Monastici*, III, 240, (Dunstable).

[130] *Ibid.*, IV, 212-213, (Wykes). [131] Rymer, *op. cit.*, I, 844-847.

in benefices, dilapidations, repairs, pluralists, etc.,[132] and preaching the crusade at Northampton in June of that year, where his eloquence inspired Prince Edward and Prince Edmund, the sons of Henry, to undertake the journey to the Holy Land, Ottoboni left England.[133] The remainder of Henry's reign was spent in comparative quiet. The king, old at fifty-seven, died in November, 1272 at Westminster.

The origin of the difficulties which arose in the long and troublesome reign of Henry III lay in the act of King John in 1213. In placing the kingdom of England into the hands of the Holy See as its fief John gave to the papacy the opportunity for a close surveillance of English political affairs. The long minority of his son, Henry, proved fertile ground in which the papal system was able to take root. From this advantage given to the popes in England and their position as the foes of the German emperors on the continent one is able to understand the reasons behind most of the transactions which took place between the papacy and England during the thirteenth century.

On the one hand the popes enjoyed the unusual position of overlords of a wealthy kingdom; on the other hand they were the victims of a devastating warfare waged upon their possessions and dominions at home. It was therefore to be expected that when they began to feel the pinch of bankruptcy and heavy debts caused by the confiscations and ravages of the imperial forces, they should turn their eyes towards their subject kingdom for help. But in their effort to gain revenue for the continuance of the papal-imperial conflict they overestimated the patience of the English people, and out of their attempt grew abuses of which England was not able to rid herself for centuries. The prestige of the papacy suffered by this campaign for money, and in no small way is it responsible for the pronounced anti-papal movement of the next century which resulted in much legislation being passed to stem the tide of papal aggression and abuse.[134]

[132] Lynwood, W., *Provinciale, etc.*, Oxford, 1679, prints the Constitutions of Ottoboni.

[133] Mann, *op. cit.*, XV, 324.

[134] Cf. *Cambridge Medieval History*, VI, 528-558, for the development of ecclesiastical finance and its bearing upon the administration of the Church.

CHAPTER IV

The Progress of Anti-Papal Legislation

The period covered by the reigns of the three Edwards (1272-1377) ushers us into the closing era of this study, for upon the death of Edward III in 1377 a definite chapter of anti-papal legislation had been written into the English statute books. Considerable legislation, it is true, was passed from that year to the time of the Wars of the Roses (1455-1485), but the principal decrees against papal jurisdiction had been promulgated, and the legislation which was to follow was but a repetition and a particularization of what had been passed previous to 1377. By the time the Edwards had finished their rule the successors of these kings had little left to initiate in the way of legal enactments against the papacy.

Edward I (1272-1307) arrived in England from his expedition on the Eighth Crusade in August, 1274 to find the kingdom in a comparatively peaceful condition. Tired and exhausted by the extended struggles which had featured the thirty one years of his father's reign, the barons were ready to welcome their new king in the person of this youthful and militant prince, who had brought distinction upon himself and upon his native land by his courage and resourcefulnesss in battle.

Edward's reign thus began under auspicious circumstances, and the action of the new monarch was relatively free from internal disorders. Therefore his eyes were turned toward Wales, whose prince had refused for several years to do homage to his father. It was Edward's purpose to subject the whole of the British Isles to his control. The submission of Llewellyn of Wales in 1277, and his death at the battle of Wye in 1282, accomplished the complete subjection of that part of the island. With Llewellyn died the independence of his race and Wales was never again to be autonomous. Edward was to take similar measures against Scotland a few years later.

In the course of the previous reign we witnessed the conflict which took place between the pope and the king on one side, and

the clerical and lay barons on the other, over the payment of papal taxes. The Church was at that time engaged in its great struggle with the empire and it required money to preserve its possessions from complete confiscation by the latter. The money had to come from England, France, and the other Catholic states of Europe. Consequently during this long strife England's treasury was seriously drained, and when he became king Edward I did not find very large sums with which to conduct his government.

Unfortunately too the heavy taxation of the Holy See did not end with the death of Henry III. Early in 1273 Pope Gregory X (1271-1276) requested the English clergy in urgent terms to grant a tenth for two years to the sons of Henry III to reimburse them for the heavy expenses of their recent crusade.[1] Two years later at the Second Council of Lyons a levy of a tenth for six years on all clerical incomes was approved for the expenses of another crusade. This tax was made payable under pain of excommunication.[2] In 1276 the clergy of Canterbury addressed a petition to the pope against another valuation for the collection of this tenth, saying that the Norwich valuation had been used previously and this new one was much higher. The petition was answered by the new Pope, John XXI (1276-1277), who refused to allow the old valuation to be used and approved the order of his predecessor.[3] The quick succession of popes in these years only added to the confusion. Gregory X had been succeeded by Innocent V in 1276. Innocent lived only five months. He was followed by Adrian V, who lived only thirty nine days after Innocent. John XXI followed Adrian but lived only seven months. The confusion thus caused in Rome, and among the papal collectors in England, left large sums stored in English monasteries and cathedrals. Edward I, pressed by the urgence of the Welsh war, was prompted to ask for the use of some of this money. Upon being refused by Pope Nicholas III (1277-1280) Edward seized the money in 1283. When news of

[1] *Annales Monastici*, IV, 256, (Wykes).

[2] *Ibid.*, IV, 258. Cf. also Lunt, W. E., "A Papal Tenth Levied in the British Isles from 1274 to 1280", in *English Historical Review*, XXXII (1917), 49-89.

[3] *Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland*, I, 452, 453.

this act reached Rome Pope Martin IV (1281-1285) ordered Edward to restore the money he had taken.[4] By this time the Welsh crisis had passed and the king consented to restore all the confiscated funds.

Naturally one of the first policies which would be pursued by the king in the early years of his reign was the effort to resuscitate the financial losses of his realm. Pope Nicholas III gave Edward a concession in February, 1278 to help him in this regard by acquitting him of the payment of eight years of arrears in the annual tribute of one thousand marks due the Holy See.[5] In the following year his financial policy motivated the enactment of the Statute of Mortmain or de Religiosis.[6] This measure forbade religious or clerical persons from entering into their own fees, buying and selling them, receiving them from others as gifts, etc. Clerics so doing were to forfeit their lands to the inheritance and fee of the chief lord immediate, and if he neglected to enter into the fee, to the next lord immediate and so on until ultimately they would pass into the hands of the king and the crown. The king gave as his reason for this Statute that the services due from such benefices were wrongfully withdrawn, and that in the beginning they were meant for the defense of the realm. In this manner Edward thought to check the grants which fell into the hands of the clerical order and which represented such a large part of his domain. If the king allowed the clerics to deal with these grants as they chose it would remove from the royal jurisdiction large tracts of property. While they remained in the hands of a lay person the king might lay some claim to jurisdiction over them, but their possession by the clergy converted them into the property of the " dead hand." This act marked the first general step taken by the crown to interfere with the properties given to ecclesiastical persons. There had been local measures of Mortmain, but this was the first act which applied to the whole kingdom.[7] It was the initial

[4] Lunt, W. E., " Papal Taxation in England in the Reign of Edward I ", in *English Historical Review*, XXX (1915), 411.

[5] Potthast, *Regesta Pontificum Romanorum*, 21271, II, 1721.

[6] *Statutes of the Realm*, I, 51.

[7] Gross, Charles, " Mortmain in Medieval Boroughs ", in *American Historical Review*, XII (1906-1907), 733-742. The reasons given for the

reactionary law against the policy which the Holy See had pursued during the course of the previous hundred years in England. The king doubtless felt the urge to utilize means similar to those of the papacy to gain the support necessary for his realm from his own people in their own country, since the pope did likewise with the English kingdom to support him in a war which did not directly interest the inhabitants of England, although the papacy and Edward were not on equal terms, the king being the vassal of the former.

The policy of retrenchment inaugurated by Edward is also reflected in the Writ of *Circumspecte Agatis* issued in 1286.[8] This Writ came about through an inquiry ordered in July, 1285 into certain disputed questions concerning the lay and ecclesiastical jurisdiction of courts in the diocese of Norwich.[9] It endeavored to adjust some of the legal problems which arose in the indeterminate borderland between the two jurisdictions. The king displayed a conciliatory tone throughout the whole Writ toward the claims of the clerical courts. But it is the issues which involved money which interest us here. In the following cases the king claimed the right of royal prohibition: the selling of tithes by clerics, the disputes arising from the right of patronage concerning these tithes, the imposing of pecuniary penalties on anyone for sin, and the collecting of a tithe exceeding the fourth part of the church in which it was levied. It was Edward's contention that when tithes were handled in this manner they were no longer religious goods but had been made temporal by reason of sale and hence were mere chattels. It is clearly seen from this law that the king was most cautious not to grant the clergy any source of income which he could turn to the profit of the state. It is only another effort on the part of the young ruler to regain ground lost by his father, to possess again the privileges enjoyed before John and Henry III.

local measures were: no taxes could be levied on religious, consequently no support was forthcoming from them, they yielded no manpower, no protection, and no improvements were made. Some of these local acts occurred as early as 1174; they set precedents for the act of 1279.

[8] *Statutes of the Realm*, I, 101.

[9] Cf. Graves, E. B., "Circumspecte Agatis", in *English Historical Review*, XLIII (1928), 2.

Edward was likewise able to negotiate with Pope Martin IV for a grant of a tenth in 1284 on the spiritualities and temporalities of all the clergy in the British Isles. Martin and his successor, Honorius IV (1285-1287), were willing that the king should possess this aid, providing he were willing to take the cross publicly and fix the date for his departure for the Holy Land.[10] In October, 1289 Pope Nicholas IV (1288-1292) consented to order tenths to be collected for six years on Edward's promise to go to the East in three years.[11] In March, 1291 Nicholas IV appointed the bishops of Winchester and Lincoln to collect the tenths for six years from June 24th of that year on the understanding that the king would set out on the same date in 1293.[12]

Meanwhile in 1290 Edward had begun his Scottish venture to unite the two countries under the one crown, upon the death of Margaret, the last member of the royal house of Scotland in direct line of descent. He found the problem of subjecting Scotland much more difficult than he had that of Wales, and it was only in 1291 that the Scottish lords, frightened by the advance of the English army and left with little help in the postponement which had been granted them to settle their disputes, decided to accept Edward as their suzerain.[13] But question of overlordship was by no means settled, and the strong rival elements and claimants for the Scottish throne, taking courage from the refusal of Pope Nicholas to acknowledge or sanction the overlordship of Edward,[14] and the decidedly friendly overtures of Philip the Fair of France (1285-1314), rose again in revolt. The pope refused to confirm Edward's claim to Scotland for, as he maintained, such an act on

[10] *Cal. of Pap. Reg.*, I, 473-474; 479-480.

[11] Rymer, *op. cit.*, II, 432-434.

[12] Bartholomew of Cotton, *Historia Anglicana*, 183-198, Rolls Series, London, 1859.

[13] Thomas Walsingham, *Historia Anglicana*, I, 35-37. Rolls Series, London, 1863.

[14] In speaking of the claim of the papacy to Scotland originating with Boniface VIII, Lingard says: "Certain it is that Nicholas IV, when Edward desired him in 1290 to confirm the claim of the English crown, replied that he could not do it, because it would be to deprive the Roman See of a superiority which belonged to it". Lingard–Belloc, *The History of England*, II, 560, note.

his part would deprive the papacy of a superiority over Scotland which belonged to it. The papacy had claimed this superiority as long ago as 1188, against the encroachments of the seas of Canterbury and York upon the domain of the Scottish Church. The French king on his part was most desirous of weakening his rival, and hence struck upon this means as an excellent one for causing the English monarch serious annoyance and possible loss of prestige. Therefore by 1295 Edward found himself at war with both Scotland and France for the overlordship of the former country. Philip the Fair had seized Guienne and his fleet was at Dover.

At this point of the war there occurs an episode of the greatest importance, the convening of the "Model Parliament" of 1295. Edward, recognizing the danger to his realm, summoned a great council or parliament to which he called not only all the archbishops, bishops, abbots, and heads of the religious houses, but also the important lesser clergy, the deans, archdeacons, priors of cathedral chapters and churches, a proctor for each cathedral chapter, and two for the clergy within the individual dioceses.[15] The reason for this display of royal concern for the lesser clergy, as well as for the smaller knights and squires, is evident enough. He secured from them the payment of certain non-feudal aids and grants to carry on his government and the wars in which he was engaged. It was a valued precedent, however, both for the king and for his less important subjects. The former had opened to him the source and knowledge of more royal revenue, while the latter found comfort in the expression of common grievances against the king's government, which usually accompanied all grants of money made to the monarch. It gave the lesser knights and clerics an excellent opportunity of coming together and finding consolation in mutual hardships, as well as organized opposition to the royal rule.

King John, during his troubles with France in 1204, had confiscated certain of the alien monasteries, on the basis that they were the property of traitorous Normans.[16] In 1295 a second major confiscation took place by decree of Edward I who ordered that such monasteries be seized. The king gave as his reason that these houses of foreign religious contained large numbers of French

[15] Stubbs, *Select Charters*, 484. [16] Cf. 43, note, of this study.

monks. At this time of war, so the king maintained, these monks, living on English soil and so close to the seacoast, constituted a grave danger to the safety of the realm.[17] Edward was probably as deeply interested in the wealth which these priories would bring to him as he was in the conspiracies of their inmates.

For a proper understanding of the subsequent relations between England and the Holy See a brief summary of the great contest between Pope Boniface VIII (1294-1303) and Philip the Fair of France, so far-reaching in its consequences on the position of the papacy in Christendom, should be given here.[18] Philip the Fair was the first absolute ruler of a strong and united France, and it was to be expected that his desire for power and the practically exclusive jurisdiction of his realm, would lead him into controversy with Rome. The first trouble occurred between the pope and the king when the latter endeavored to tax the clergy as he did his other subjects. The rich estates of the clergy were naturally attractive to the king after he had succeeded in collecting all the feudal dues he possibly could from the other orders of the state. In spite of the claim made by the ecclesiastics that the property of the Church was dedicated to God and owed the king nothing, Philip had compelled them to pay a hundredth and again one fiftieth on their possessions in support of his vast schemes for the advancement of his kingdom.[19]

In an effort to check this tendency upon the part of the French king, and also as a general warning to all Europe, Pope Boniface issued in February, 1296 the famous Bull *Clericis Laicos*.[20] This document absolutely forbade the clergy and prelates from paying to laymen any part of their incomes or the revenues of the Church without the authority of the Holy See. Furthermore it placed the

[17] New, *History of the Alien Priories in England to the Confiscation of Henry V*, 53-55.

[18] Cf. Curley, Sister Mary Mildred, *The Conflict between Pope Boniface VIII and King Philip IV, The Fair*, Washington, 1927. Cf. also Carlyle–Carlyle, *A History of Medieval Political Theory in the West*, V, 374-440, for a discussion of the legal theories of both parties, the contemporary literature supporting both sides.

[19] Robinson, J. H., *History of Western Europe*, 304, New York, 1918.

[20] Wilkins, *Concilia*, II, 222. Cf. also Carlyle–Carlyle, *op. cit.*, V, 376-379.

ban of excommunication *eo ipso* upon all such prelates who disobeyed the orders of the bull and upon all emperors, kings, princes, dukes, counts, and barons who should exact or receive such payments. This ban of excommunication was to be lifted only at the hour of death. Boniface outlined his reasons for issuing such a strong admonition as follows: the laity had always been hostile to the clergy, and although they possessed no authority over ecclesiastical persons and property they tried to impose all sorts of heavy burdens on the clergy and sought to reduce them to servitude; furthermore several prelates, more fearful of giving offence to their temporal lords than to God, acquiesced in these abuses.

It was a bold stroke on the part of the sovereign pontiff and he was to live to suffer for his well-intentioned efforts at reform. Philip replied by refusing to allow the exportation of gold and silver from France.[21] In this way much of the pope's revenue from that kingdom was cut off, and Boniface was forced to retreat a bit from the harsh claims of *Clericis Laicos.* He took pains to explain his position in the latter part of 1296 and in the following year in the Bulls *Ineffabilis,*[22] *Romana Mater Ecclesia,*[23] and in the papal brief, *Exiit.*[24] He maintained that he did not mean to interfere with the payment of the clergy's part of the customary feudal taxes, providing they gave freely, nor with their loans of money to the king for the support of the realm; his warning had been aimed only at extortioners. In December, 1301 Boniface issued another bull, *Ausculta Fili,* occasional by a later controversy over the right to try the bishop of Pamiers, papal envoy to the French court, in which he declared in general and figurative language that the king was subject to him as the sovereign pontiff, the superior in spiritual affairs.[25] These documents were intended to soften the temper of the French king which had been aroused by the strong tone of the *Clericis Laicos.*

But Philip was not to be won over so easily and in February,

[21] Curley, *op. cit.*, 78.

[22] Hefele–Leclercq, *Histoire des Conciles,* VI, 369 ff.

[23] Curley, *op. cit.*, 83.

[24] *Ibid.*, 82.

[25] Hefele–Leclercq, *op. cit.*, VI, 403. Cf. also Carlyle–Carlyle, *op. cit.,* V, 385-387.

1302, at the suggestion of his minister, Marigni, the king called together the Estates-General in order that he might have each of the three orders send a letter to the pope, asserting the independence of the crown.[26] In 1303 he sent Nogaret to Anagni where that ruffian insulted and mishandled the old pontiff. Pope Boniface died on October 11th, 1303. Shortly after his death there begins the era of captivity for the papacy with the election of Clement V (1305-1314), a Frenchman, and the residence of the popes at Avignon for over seventy years.

This conflict which took place upon the continent made its impression felt in England as well. Edward, prompted naturally by the great expenses which he was incurring from his wars, made a demand of half of the clerical income, both from the clergy's lay fees and their benefices, in November, 1294.[27] The clerical order was moved at once to vigorous opposition by this exorbitant demand, but because of serious threats issued by the king's officials they finally gave in and submitted to the tax. Edward was encouraged and ventured to repeat the performance in the next year, this time asking for a fourth or fifth.[28] The clergy pleaded inability to pay and offered a tenth, which was accepted after a scornful refusal and delay of two months.[29] These excessive demands prompted the clergy to appeal their case to Rome and it was to cure this annoying situation and a similar one in France that, as we have mentioned, Boniface VIII issued in February, 1296 the Bull *Clericis Laicos.*

Just as the purpose of the *Clericis Laicos* was meant for England as well as France, so also was the retreat of Boniface VIII from his rigid stand applicable to England as to France. In consequence of the protection afforded by the papal bull the English clergy refused the grant of a fifth in November, 1296.[30] There followed this refusal the declaration by the king's chief justice that the whole clerical order was outlawed and justice was forbidden them in any of the king's courts until they had met the wishes of their monarch regarding the tax.[31] But before the writs to carry out

[26] Curley, *op. cit.*, 101 ff.
[27] *Flores Historiarum*, III, 90. Rolls Series, London, 1890.
[28] *Ibid.*, III, 95.
[29] *Ibid.*, III, 95.
[30] *Ibid.*, III, 99.
[31] *Ibid.*, III, 99.

these orders could be issued the archbishop of York with his clergy had given in and paid the fifth requested by the king.[32] If the whole clerical order had remained solidly together it would have been well nigh invincible. But the capitulation of York and his men brought that of many others, for already some clerical property had been seized in the province of Canterbury by the crown officials, and soon most of the exorbitant demands of the king upon the ecclesiastics had been satisfied. They had lost a very important combat by the lack of uniform action.

Between the exactions of the king for the expenses of his realm and those of the Holy See the English clergy indeed were constantly hard pressed during the reign of Edward I. In October, 1297 the king called upon the clerical order to grant him another aid for his wars with the Scottish nobles.[33] In a convocation of the province of Canterbury the clergy of that province agreed to furnish the king with a tenth, to be collected under the supervision of the bishop of each diocese and with no interference by laymen.[34] In the convocation of the province of York in the next month the clergy of the northern province agreed to pay a fifth for the aid of the king and his wars.[35] Those who could not supply the aid in cash were allowed to make up their deficit in horses, cattle, corn, and other necessary supplies for the army.[36]

Simultaneously with these royal taxes the papacy was making demands upon the English churchmen as we may learn from a complaint registered by the clergy of Canterbury.[37] In this complaint against the excessive financial burdens imposed by the Holy See the clerical order registered their grievance against the great number of procurations which were demanded by the members of the commission appointed by Boniface VIII to make peace between England and France in February, 1295. The commissioners, the

[32] *Chronicle of Pierre de Langtoft*, II, 279. Rolls Series, London, 1866-1868.

[33] Graham, R., *English Ecclesiastical Studies*, 317-318, London, 1929.

[34] *Ibid.*, 318.

[35] *Ibid.*, 319.

[36] *Ibid.*, 319.

[37] *Ibid.*, Chapter XII, "A Petition to Boniface VIII from the Clergy of the Province of Canterbury in 1297", 302-316.

cardinals of Albano and Palestrina, had been given power to levy procurations by the pope.[38] The English clergy likewise petitioned for a revision of the assessment of Church lands and benefices which was instituted by Pope Nicholas IV in 1291. They maintained that they were assessed, on the basis of this new valuation, far above the value of their property.[39] Moreover they requested that Boniface appoint someone living in England to absolve those of the clergy who had incurred excommunication by disregarding the Bull *Clericis Laicos* in order that they might escape the expense of sending a proctor to the papal court for absolution.[40] Lastly the clergy petitioned against the actions of Geoffrey of Vezano, who was the papal collector in England from 1276 to 1302. They declared that the collector was exacting more than the customary amounts for Peter's pence, and too that he was interfering and exacting sums from the goods of those bishops and clergy who had died intestate, while as a matter of fact the affairs of such ecclesiastics should be disposed of by the bishops.[41] Despite these protests the abuses were not corrected and the clergy continued to suffer from them.

Meanwhile Edward had not fared so well in Scotland during the late nineties. At the battle of Stirling in 1297 Wallace, the Scottish leader, had defeated the English and before the end of 1299 the strong castle of Stirling fell before the Scottish siege. Edward might have pursued the war had it not been for the refusal of his barons to lend him support, either for the Scottish campaign or for the recovery of Guienne from the king of France.

In 1299 the Scottish lords made a striking move. They pleaded before Pope Boniface VIII that Scotland was his by right and that he should grant them protection against Edward of England.[42] They were playing John's game in order to shield themselves. They wrote to the pope, asking him as the head of Christendom to settle their disputes with the English king, and furthermore re-

[38] Graham, *op. cit.*, 302.

[39] *Ibid.*, 307.

[40] *Ibid.*, 309.

[41] *Ibid.*, 309-311.

[42] Tout, T. F., *The History of England from the Accession of Henry III to the Death of Edward III, 1216-1377*, 217, 219. London, 1905.

questing him to protect what they now styled his "allodial land." Boniface VIII imprudently accepted the grant of the nobles of Scotland and called upon Edward I to submit his claim in June, 1299.[43] Boniface may have acted in good faith in this procedure, but it is difficult to consider his acceptance of this dangerous gift as anything but foolhardy and reckless. One writer terms the act of the pope "an enormity."[44] The *Bulla Minatoria,* which was sent by the pope to Edward in June, 1299 was long in reaching the hands of the king and it was only in August, 1300 that he finally had it read before him and his nobles. The reply was likewise delayed since Edward needed the help of the pope against Philip the Fair.

To answer the pope a parliament was called to meet at Lincoln early in 1301. The demand of Boniface raised the indignation of the barons and they drew up a lengthy, elaborate letter to him, explaining that the Roman Church usually acted for the best interests of the faith, but that the papal bull regarding Scotland had caused surprise by its demands anent that country. They maintained that Scotland had never acknowledged the suzerainty of Rome but rather of England, nor did the English kings recognize foreign lordship of it. With this explanation of their position they refused the papal demands, both then and for the future, and requested peaceful observance of the rights which had been invaded.[45] Edward I likewise replied with a letter in May, 1301 which was merely explanatory but not bold.[46] He respectfully traced his claims upon Scotland back to Old Testament days, through Brutus of Troy, the founder of London, Arthur, and others, down to more substantial precedents of history. Boniface would probably have remained adamant, however, had it not been for the growing intensity of the quarrel between himself and Philip, which was fraught with much more important consequences than the Scottish affair. This trouble made the pope reluctant to add to his burdens, and the pontiff was dead before he could again turn his attention to Edward and Scotland.

[43] *The Chronicle of Pierre de Langtoft,* II, 389-401, (Appendix I).
[44] Belloc, *op. cit.,* II, 395-396.
[45] *The Chronicle of Pierre de Langtoft,* II, 421.
[46] *Ibid.,* 403-421.

The year before his death, in November, 1302, the year of the summoning of the Estates-General in France by Philip to urge the condemnation of Boniface, the pope gave final expression to his conception of the relative positions of the Church and the state in the Bull *Unam Sanctam.*[47] The Bull dwelt upon the dogmatic propositions of the unity of the Church, the necessity of belonging to it for the attainment of eternal salvation, the position of the pope as supreme head of the Church, and the duty thence arising of submission to the See of Peter in order to belong to the Church and thus attain salvation. Moreover it emphasized the higher position of the spiritual in comparison to the temporal order and power. It was a solemn pronouncement from the Chair of Peter on the unity of the Church and the supreme power of the occupant of that chair in spiritual matters. It was levelled at the growing spirit of nationalism and revolt against Rome, which was beginning to show itself in the domineering absolutism of the French monarch and the rising nationalism of both the French and English kingdoms. It was the last great message of Boniface VIII.[48]

The year 1304 witnessed Edward's conquest of Scotland and the execution of Wallace, the leader of the revolt. The year previous found Edward the victor on the continent. Philip, agitated by his long, bitter fight with Boniface VIII, solicited Edward's good will by restoring Guienne to the English king as a fief and abandoning the aid he had given to Scotland. Further through the medium of Cardinal Peter of Spain, papal legate, in 1307 he offered his daughter, Isabella, to Edward's son, Edward II, in contract of marriage.[49] Philip was more anxious to be the winner in his effort to conquer the papacy than he was to defeat the English king in his endeavor to gain Scotland or his lost continental possessions.

Despite the protests of the English clergy anent papal abuses these did not cease with Boniface VIII. In 1301 Boniface had im-

[47] Hefele–Leclercq, *op. cit.*, VI, 424-430. Cf. also Carlyle–Carlyle, *op. cit.*, V, 392-393.

[48] Cf. *Cambridge Medieval History*, 602-633, for a discussion on the positions of Boniface and Philip, and the theories of the canon and civil laws, etc.

[49] Thomas Walsingham, *op. cit.*, I, 112. They were married in January, 1308. *Ibid.*, 121.

posed a tithe upon the English clergy for a period of three years, the gross income from which would be shared about equally by himself and the king.[50] The death of the pope in 1303 caused Edward to seize the opportunity to claim for himself the whole of the outstanding debts, asserting that Boniface had granted this privilege to him in case of his death or the end of the war then going on in Sicily.[51] But since no written record of this agreement was to be found Benedict XI (1303-1304) refused to recognize it, and instructed Gerard of Pecorara, who had been appointed papal collector in the British Isles by Benedict in February, 1304 to proceed with his collections.[52] Thereupon Edward ordered Gerard to appear before the mayor of London and the aldermen. They were to annul his instructions from Benedict and then send him to the king and his council where he was to show by what right he exercised his powers. If he refused he was to be seized for coming into the kingdom without the consent of the king.[53] The king's action was effective, for the collector revoked all his orders and acts, and forbidden by royal order to remain more than eight days in England, he left the country almost immediately.

It was not long, however, before another papal collector appeared in England by appointment of Benedict XI's successor, Clement V (1305-1314). In June, 1306, we find the new collector in the person of a certain William Testa, a most efficient employee of the *Curia*. By his appointment of commissaries to collect the papal dues, whose inquisitorial demands stirred the resentment of both clergy and laity alike, Testa made himself extremely unpopular in England.[54] Another factor which added to the anger felt in England against Rome in these years was the imposition of the first levy of papal annates in June, 1306. By this decree Clement V called for the first fruits in all benefices and ecclesiastical offices falling vacant for three years to be paid into the hands of the papal collec-

[50] Lunt, W. E., "Papal Taxation in England in the Reign of Edward I", in *English Historical Review*, XXX (1915), 416.

[51] Lunt, W. E., "The Account of a Papal Collector in England in 1304", in *English Historical Review*, XXVIII (1913), 314.

[52] *Ibid.*, 315.

[53] *Ibid.*, 315-316.

[54] Graham, *op. cit.*, 316.

tors.[55] Clement gave as his reason for this new method of exacting revenue from England that there was a deficit in the papal treasury, that deficit having been caused by a lack of revenue from the papal states due to the confusion caused by arrears in payments during the time of Boniface VIII, the inability of Benedict XI to make up for this deficit, and the vacancy of the papacy between Benedict's death and Clement's election.[56] The practice of the pope in granting the first fruits to prelates and kings had been exercised for some time; it was not difficult to see therefore why the pope fixed upon this aid for himself when he was in need.

The annoyance caused by these various exactions found expression in the Parliament of Carlisle in January, 1307. A petition was introduced into this meeting which was chiefly aimed at the abuses practiced by the papal collector, William Testa, and his assistants. The petition spoke of the evils existing in England with regard to provisions, the claim of the papal procurators to goods and chattels not definitely bequeathed by testators but left to distribution according to discretion of their executors, against their claims to goods of intestates, against demand of debts or sums promised in aid of the Holy Land, not paid at the appointed date, against the demands of the papal collectors in asking the whole of such debts of the debtor when the creditor had promised but half, against the taxing of the temporalities of the Church and appropriating advowsons, against claims to fruits of a benefice during the first year of a vacancy, against taking the first fruits of churches, and against exact demands of 1*d* a hearth for Peter's pence instead of a stipulated sum.[57]

The demands of the barons for reform, contained in these articles, were not, however, allowed to be enacted into a statute. At the protest of the new legate, Cardinal Peter, bishop of Sabina, who had come to arrange for the marriage of Prince Edward with Isabella of France, the king withdrew his assent to the grievances. Moreover the writs which parliament had succeeded in putting

[55] Lunt, W. E., "The First Levy of Papal Annates", in *American Historical Review*, XVIII (1912), 57-58.

[56] *Ibid.*, 50.

[57] Thompson, E. M., "The Petition of 1307 against Papal Collectors", in *English Historical Review*, XXXV (1920), 419-420.

through in March, 1307 with the king's consent to stop Testa and the other papal collectors, were modified in April by the king in conformity with the legate's demands. The first writs had never been formally issued due to the influence of Peter, the legate, over Edward.[58] Edward was still in the Pope's debt and it would have been imprudent for him to allow this strong action against the papal collectors in England. Testa was finally brought before the king's council in June, 1307 where writs were issued against the collection of all exactions prejudicial to the crown with the exception of first fruits, and they even complained against those.[59] The articles as presented in the petition of the barons at the Carlisle parliament foreshadowed the course taken in the anti-papal statutes of Edward III.[60]

The parliament in session in this year did succeed, however, in passing one act which had as its object the curtailment of revenues leaving the kingdom. This was the Statute of Carlisle.[61] With this measure all foreign religious superiors of communities and orders having houses in England were forbidden to take out of the realm any taxes, tallages, loans, tributes, etc. from these houses. Furthermore all superiors of these houses in England were forbidden to send or to take any such loans, taxes, and tributes from their houses to the continental motherhouses. Moreover each monastery was compelled henceforth to possess a common seal to be kept in the possession of any one of the monks with the knowledge of four of the most discreet and worthy members of the community, not by the abbot or prior alone, whom it was alleged often entered into obligations and contracts unknown to the monks. Permission was granted for the heads of religious houses from the continent to visit their subjects in England on matters of discipline, etc., providing they did not carry away with them any monastic goods or property from these subject houses.

This is clearly an economic measure, passed with a view to check-

[58] Capes, W. W., *A History of the English Church in the Fourteenth and Fifteenth Centuries*, 41-42, London, 1900.

[59] Lunt, W. E., "The First Levy of Papal Annates", in *American Historical Review*, XVIII (1912), 55.

[60] Tout, *op. cit.*, 230-231.

[61] *Statutes of the Realm*, I, 150.

ing the drainage of English money from houses within the island to the motherhouses on the continent. The Statute of Carlisle proved but a forerunner of the Statutes of Provisors and Praemunire, which were to follow in the days of Edward III. The Carlisle decree forbade the taking of money and goods out of England to the motherhouses of religious communities; the two latter measures were to forbid the transference of such to the Court of Rome, without the consent of the king.

In July, 1307 Edward I died near Carlisle while still pursuing the war against the Scottish forces, and was succeeded by his son, Edward II, on the English throne.

The reign of Edward II (1307-1327) was a sad twenty years in the history of England. The young king possessed few qualities that made for kingship; he was neither a great soldier nor a wise statesman. He was not long in control of affairs before he had lost the respect of all the better nobles of the realm by his flagrant partiality towards Piers Gaveston, his favorite, and a man wholly devoid of propriety and prudence. This favoritism provoked a civil revolt in 1312, led by Thomas Lancaster, the king's cousin, and Gaveston was murdered in June of that year. In 1314, to add to the humiliation of the king, all the advantages gained by his father in Scotland were lost. At the battle of Bannockburn, where the Scottish forces were led by Robert Bruce, the army of Edward II suffered a complete defeat.

Significant events had likewise transpired upon the continent immediately preceding and during Edward II's first years as king of England. In 1305 there had been elected to the pontifical throne Pope Clement V (1305-1314), a Frenchman. Upon the invitation of the cardinals that he proceed to Rome for coronation the new pope declined and had that ceremony held in Lyons. By selecting as his residence the town of Avignon in the south of France Clement set a precedent that was destined in the next seventy years to weaken largely the power and prestige of the papacy in Europe. The Holy See became a tool for the advancement of French influence.[62] This domination of the papacy by France was keenly re-

[62] "The freedom and independence of the highest tribunal in Christen-

sented by the other Christian countries of Europe.[63] Particularly in England was sentiment aroused against the papacy on this account. England naturally felt that in giving aid to the Holy See she was thereby strengthening her rival, the French monarchy. The exactions of the papacy during these seventy years on England, and they were many, proved especially offensive.[64] While the popes might protest that their demands for revenue were made in the interests of the Universal Church, the subjection, real or imagined, of the head of that Church to a power which had so little of the spirit of the universal about it, colored these calls for money with a deceptive hue. This residence of the popes in France and the consequent strong French domination became then another contributing factor to the revolt against the papal power in England in the middle of the fourteenth century.

Papal exactions continued during the reign of Edward II. In 1307, the year of Edward I's death, as noted above, Pope Clement V sent Cardinal Peter of Spain to attempt a peace settlement between England and France and to arrange for the marriage of Edward II with Isabella. The legate demanded of all ecclesiastical persons a procuration of twelve marks for the expenses of his English visit.[65] Again in 1312 we find two more legates in England, this time to settle the internal revolts of the realm. The legates, Cardinals Arnold of Albano and Arnold of St. Prisca, demanded a procuration of twelve marks of all ecclesiastics whose incomes were valued at over two hundred pounds and threepence in the mark for those whose incomes were valued below this figure.[66]

dom, which, according to Innocent III, was bound to protect all rights, was endangered, now that the supreme direction of the Church was so much under the influence of a nation so deeply imbued with its own spirit, and possessing so little of the universal. That France should obtain exclusive possession of the highest spiritual authority was a thing contrary both to the office of the Papacy and the very being of the Church." Pastor, L., *History of the Popes*, I, 62.

[63] "By this subjection and by its worldliness, the Avignon Papacy aroused an opposition which, though it might for a moment be overborne while it leant on the crumbling power of the Empire, yet moved men's minds so deeply that its effects were not effaced for several centuries". *Ibid.*, I, 62-63.

[64] Capes, *op. cit.*, 48.

[65] Graham, *op. cit.*, 314.

[66] *Ibid.*, 314.

The clergy suffered too from the abuse of clerical tenths being levied upon them by the pope for the support of the English realm. In August, 1305 Pope Clement V had levied three separate tenths for the Holy Land, the third of which was renewed and given to Edward II in May, 1309 to be collected in the following year.[67] Moreover Edward secured all of the universal sexennial tenth decreed at the Council of Vienne in 1312. The collection was made during one year and then suspended. Edward II received this money on the promise of a crusade which he made to Pope John XXII (1316-1334).[68] Pope John suspended collection of the remainder of the old tenth and granted the king a new one to be paid during the period of suspension by the English clergy for one year.[69]

It was to be expected that the clergy would object to this policy of double taxation made upon them by both the pope and the king. Their protest came in the Parliament of Lincoln in 1316 and is known as the *Articuli Cleri*.[70] The list of grievances contained the following requests: that no prohibition be granted but where money was demanded for tithes, that prelates correct for defamation, that no prohibition be allowed where a tithe was demanded of a new mill in a case where a suit might be commenced both in a spiritual and a temporal court, that those who abjure the realm be in peace whilst in the churches or in the highway, that religious houses be not charged with pensions, that examination of a clerk belong to a spiritual judge, that there be free elections to Church dignities, that a clerk fleeing to the Church for felony be not compelled to abjure, and that the privilege of the Church demanded by the ordinary should not be either denied or withheld from a clerk who has confessed felony.

King Edward II caused these articles to be heard by the parliament and had most of them answered satisfactorily. Among the promises made for reform of abuses were: no prohibition in suits for tithes, oblations, etc. was to be issued unless they were sold or arose from the right of patronage; seizing a clerk would bring the

[67] Lunt, W. E., " Clerical Tenths Levied in England by Papal Authority during the Reign of Edward II ", in *Haskins Anniversary Essays*, 163.

[68] *Ibid.*, 170.

[69] Rymer, *op. cit.*, II, 319.

[70] *Statutes of the Realm*, I, 171-174.

demand to appear before the king and excommunication before the prelate; prohibitions would not be issued by the king's justices upon a demand of a tithe for a new mill; jurisdiction of the king's court was to be administered jointly with the spiritual; no letter of the king would be issued to discharge an excommunication unless it was found that such a sentence did prejudice to the king's liberties; clerics wanted for crimes would not be seized in the churches or the highways; protection was granted to persons fleeing to the church; religious houses were not to be unduly charged with pensions in the future; a cleric presented for examination of his ability to take over a benefice was to be examined by a spiritual judge; and elections to church dignities were to be made free according to the form of statutes and ordinances.[71]

However, very little real benefit came of the promises given by the king and parliament, for Edward was so irresponsible and helpless and the government of England so involved in civil strife, that the complaints of the clergy were soon forgotten. These complaints contained no extraordinary demands, they only manifested the desire of the churchmen to obtain some definite assurance from the miserable Edward as to the protection of their rights and privileges.

Meanwhile the clergy continued to be taxed by both the papacy and the king. In 1317 Cardinal Gaucelin and Cardinal Luke of St. Mary's in Via Lata were sent as papal legates to England by Pope John XXII to negotiate a peace between Edward and Robert Bruce. The legates used this mission as a means to exact a procuration at the highest possible rate, fourpence in the mark, from all the English clergy.[72] Papal provision to English benefices kept up apace. They were of two kinds: a direct provision to a specific benefice by a papal bull, and grants conferring the expectation of a benefice in the gift of a particular church or religious house. These provisions grew according to the relations between the papacy and England. They were most numerous during the time when the papacy was granting papal mandates for the collection of clerical tenths from the English clergy for the support of the king's ventures. In the year 1316-1317 we find the astounding number of

[71] *Statutes of the Realm*, I, 171-174. [72] Graham, *op. cit.*, 315.

one hundred and sixty-eight of these provisions made by the pope, again in 1327-1328, the last year of Edward II's life, the number reached fifty-two.[73] These figures will give some idea of how far this abuse of papal provisions to English benefices was carried in the reign of Edward II.

Edward made no serious objections to this action of the papacy, for he was enjoying the aid granted to him by papal mandates which forced the English clergy to pay him revenues for the continuance of his wars. In 1318 he sought a tenth from that order for the war with Scotland. The northern convocation complied, but the southern bishops, doubting their ability, despatched an envoy to the pope, asking him to impose such a tax himself if the pontiff thought they should give it.[74] Pope John replied in May, 1319 that the clergy of Canterbury, with the exception of the Hospitallers, should pay the tenth demanded by the king for the protection of the realm from Scottish attack.[75] In December, 1319 the king appealed directly to the pope for a mandate to force the clergy to pay another tenth. The pope agreed and sent a mandate, again exempting the Hospitallers.[76] Another demand of a like character came from Edward in March, 1320. With this request, however, the pope did not comply.[77] Nevertheless in April, 1322 John XXII ordered the clergy of England, Ireland, and Wales, except the Hospitallers, to pay the king a tenth for two years beginning on May 30th for the defense of the realm. Although John demanded a share of this tenth he got but a very small amount, since Edward II objected that he was unable to meet the demand of the pope.[78]

The advantage enjoyed by Edward in this method of extorting funds from the English clergy was considerable.[79] It was often difficult and sometimes well-nigh impossible for the king to secure aids from the clergy in convocation. A royal order to convene a

[73] Deeley, A., "Papal Provision and Royal Rights of Patronage in the Early Fourteenth Century", in *English Historical Review*, XLIII (1928), 496.

[74] Lunt, W. E., "Clerical Grants Levied in England by Papal Authority during the Reign of Edward II", *Haskins Anniversary Essays*, 173.

[75] Wilkins, *Concilia*, II, 492.

[76] Lunt, *op. cit.*, 176.

[77] *Ibid.*, 176-177.

[78] *Ibid.*, 178.

[79] *Ibid.*, 178.

convocation and grant an aid was frequently greeted with a host of excuses from the ecclesiastics and ultimate failure on their part to fulfill the king's demands.[80] The clergy did not fear the king's threats, for they could always have recourse to their right of calling a convocation when they chose without regard to the pleasure of the king. However, when the king appeared with a mandate from the pope, commanding them to grant the aid there was little left but to accede to the king's desires. If they refused the pope's command excommunication or suspension might be visited upon them. These papal mandates therefore proved very useful to Edward.

In 1324 Edward seized the alien priories upon a pretext of war with France.[81] These were returned, however, upon the accession of Edward III when peace was once more assured. In 1325 Edward issued a writ which he directed to all the bishops and thirty-one abbots and priors in which the king commanded them not to execute any papal letters prejudicial to himself, his people or his crown without his consent having been given to them.[82] Edward was demonstrating the fact that while he was ready to profit by the papal concessions and favors made to him, he was not entirely trustful of the intentions of the papacy.

There is little of interest in the rest of Edward's reign that should occupy our attention. As the struggle between the king and his barons continued the actions of Edward became more censurable and the barons were brought to the breaking point by the king's partiality towards his new favorites, the Despensers, whose influence upon the monarch incited the nobles to greater extremes. When in 1325 Edward was summoned to France to do homage for his French possessions, he sent his queen, Isabella, to represent him. While there she was joined by Lord Mortimer, whom she made the head of her household, and together they began their plots against the king and the Despensers. The queen had become alienated from her husband by his attachment to Gaveston and his other favorites. When Isabella returned to England with the young Prince of Wales, heir to the English throne, she brought with her an army led by Mortimer. Edward II and the Despensers fled westward but were captured. The Despensers were hanged and the king imprisoned. Parliament deposed Edward II and Edward III, his

[80] *Ibid.*, 179-181. [81] New, *op. cit.*, 62. [82] Rymer, *op. cit.*, IV, 184-185.

young son, was crowned in February, 1327.[83] The young monarch's mother, Isabella, and her paramour, Mortimer, were the real rulers of England for several years. In September, 1327 Edward II was murdered by his guardsmen in the Castle of Berkeley. Thus was ended one of the most miserable reigns in English history.

With the death of Edward II the first period of organized effort against the encroachments of Rome upon the clerical and lay elements in England comes to a close. The passage of the Statute of Mortmain in the reign of Edward I, forbidding clerks from entering into their own fees, selling them, or receiving them as gifts; the Writ of *Circumspecte Agatis,* in which all claims which demanded a monetary penalty were to entertain the prohibition of the king's justices; the ecclesiastical summons to parliament, which called the lesser clergy to that body in order to gain their pecuniary aid for the king's wars; and lastly the Statute of Carlisle, which forbade the transference of all money and goods from English monasteries to their continental motherhouses—all these, with many other minor indications, showed a reaction against that excessive burden which England had felt through the reign of Henry III when her clerical and lay barons were taxed to a condition approximating financial bankruptcy in order to help the papacy triumph over the empire. During the reign of Edward II papal taxation increased considerably, and in these years there was added the burden of taxes levied upon the English clergy by the pope for the king's use. This assistance given by the papacy to the schemes of Edward II, who was extremely unpopular because of the partiality which he showed toward his foreign favorites and his inability to govern the kingdom, only augmented the feeling of resentment. Though formal complaint was made to parliament in the *Articuli Cleri* of the churchmen in 1316 little real improvement was shown in the attitude of the king towards them. The lay barons were in sympathy with the grievances of the clergy, for they, too, had been made the subjects of intolerable taxes levied to support the king in his unfortunate undertakings. A strong reaction against such unjust exactions was inevitable, and this manifestation of it, which we have noted in the time of the first two Edwards, is a mere introduction to what was to follow under Edward III.

[83] Belloc, *op. cit.*, 437-438.

CHAPTER V

The Age of Edward III

The first three years of the reign of King Edward III (1327-1377) are taken up with the regency of the Queen Mother Isabella and Mortimer. During these years peace was made with Scotland, and David, the son of Robert Bruce, was married to Edward's sister. In 1329 Edward set out for France to do homage to Philip VI (1328-1350) for his French possessions. Shortly after his return the young king attained his majority. In November, 1330 Mortimer, the consort of the queen mother, was tried by the court of the barons, condemned and executed. The following ten years of Edward's reign were devoted to efforts upon the part of the king to secure for Edward Baliol, with whom he had entered into a secret agreement against David Bruce, the throne of Scotland. It was a difficult task, since Bruce was the choice of the Scottish barons, and Philip VI of France, in order to aid the Scottish cause, had invaded Edward's continental possession of Gascony in 1336. There were already grounds for the great war between France and England which was to open in the next year.

The causes for the prolonged struggle, known in history as the Hundred Years' War, the war which was to engage the attention of the two leading countries of Western Europe for over a century, were many and varied. Edward III had grown resentful of Philip for making an alliance with the revolting Scots; moreover the French king had invaded Guienne, which was the center of the wine trade and which, if cut off, would seriously damage England's commerce. The hostility between France and Flanders turned the latter towards England, much the same as Scotland had sought the help of France. This heightened the desire of the English to gain more influence in Flanders, which was the home of the weaving industry and the natural market for English wool. Such an opening for English influence so close to her borders was sure to be opposed by France. Lastly there was the claim of Edward, through his mother, Isabella, the daughter of Philip the Fair, to the throne

of France. Edward aspired to that crown through his mother, since her brothers, the male heirs, had died without issue.[1] His claim was supported surely by the feudal right of the Middle Ages, but it was vain to hope for its fulfillment under the circumstances. The feeling throughout France was too intensely bitter against the Plantagenets to allow an English king to take the throne of that country.

And so the great war opened in 1337 and continued, with intermittent periods of peace, down beyond the middle of the next century. This struggle must be kept in mind when dealing with the remainder of our problem, for it had a profound effect upon the anti-papal legislation which was passed in the latter half of Edward's reign. The popes continued their residence at Avignon within the confines of the French monarchy throughout the whole reign of Edward III, and consequently the papacy was looked upon in England as party to the enemy's endeavors.

The papacy at this time did indeed appear to be but the appanage of the French monarchy. Pope John XXII had perpetuated the Avignon residence by laying the foundations of the papal palace in that city, and creating at one time eight cardinals, seven of whom were French.[2] This strong French influence over the Holy See cast a shadow about all the dealings of the latter with the secular powers. When therefore John XXII attempted to interfere and settle the dispute between Louis of Bavaria (1313-1347) and Frederick of Austria (1314-1330) for the throne of the empire, the action of the pope was regarded as a manifestation of French policy. John offered to act as mediator and appoint Robert of Naples as ruler or vicar of the papal states until such time as the imperial office might be properly filled. Louis ignored the pope's advice and proceeded to war with Frederick, whom he captured in 1322. He then began a series of acts against Pope John similar to those of Henry IV and Philip IV at an earlier date. The pope excommunicated Louis in October, 1324 and laid his lands under an interdict.[3] In 1327 Louis was reconciled to Frederick, but in the spring of the following year he had his revenge upon the pope. He marched

[1] Cheyney, E., *A Short History of England*, 231, gives a genealogical table illustrating Edward III's claim to the French throne.

[2] Alzog, *Manual of Universal Church History*, II, 830.

[3] *Ibid.*, II, 831.

to Rome, was crowned emperor by Sciarra Colonna, the archenemy of John, proclaimed the pope as deposed because of high treason, and set up an anti-pope in the person of Pietro da Corvara, Nicholas V (1328-1330). The triumph of Louis, however, was short-lived, for Robert of Naples was successful in forcing Louis to abandon Rome, and the anti-pope, Nicholas, fled to Avignon, where he was reconciled to John XXII. He received the protection of the pope until his death in 1333. The excommunication of Louis was the last excommunication to be pronounced upon one of the German emperors, and Nicholas V was the last of the imperial anti-popes.

This struggle between the empire and the papacy, the last to fall within the purview of this study, continued during the reigns of Benedict XII (1334-1342) and Clement VI (1342-1352), successors to John XXII. It was only in 1347, with the death of Louis of Bavaria, who continued his outrages against the rights and property of the Church to the year of his death, that we find a settlement being effected by Clement VI. Through the instrumentality of the pope, Charles, Margrave of Moravia, was elected at the Diet of Rense in 1346 and crowned at Bonn as Emperor Charles IV. It was a conflict which illustrated very clearly the unfortunate and weakened state of the papacy, and its loss of esteem and prestige upon the continent.[4]

The papacy was likewise meeting opposition from another source at this time. There had arisen during the pontificate of John XXII a school of literary critics of the Holy See whose tenets were threatening to the supremacy of the pope. This school was represented by such writers as Marsilius of Padua and Jean de Jandun, professors in the University of Paris, who were the authors of the *Defensor Pacis,* and William Occam, John of Paris, Louis of Beben-

[4] "Envenomed by the dependence of the Popes on France, the exasperation on both sides was intense. The ecclesiastical power was implacable, lost to all sense of moderation, dignity, or charity. The secular power, cowardly but defiant shrank from no extreme, sought the aid of the lowest demagogues, and by its vacillations frustrated each favourable chance that arose. The long and obstinate warfare, so little honourable to either party, could have no result save the equal humiliation of both and the complete ruin of social order in Church and State." Pastor, *History of the Popes,* I, 83.

berg and a number of lesser figures. They expressed some astounding views concerning the supremacy of the emperor and a general council over the pope, and made a plea for more democratic ideals in the government of mens' affairs.[5] Their doctrines were indicative of the resentment felt against the arbitrary exercise of authority by a number of the last occupants of the Holy See and the partiality for France shown by these same popes. The papal residence at Avignon had diminished the prestige and esteem once held for the papacy, and feelings of indifference and distrust towards it had arisen. Pastor maintains that the conflicts with the empire during John's and Benedict's reigns were a direct result of the dissemination of these false doctrines taught by Marsilius of Padua and his followers.[6]

The troubles existing in Italy between the rivals for the throne of the empire and the pope's representatives were bound to curtail the revenues which were wont to come into the pope's hands from his patrimony of the papal states, to say nothing of the financial support lost to the Holy See by the residence in France. Consequently the papacy did not relax its heavy exactions upon England during this first half of the fourteenth century. Pope Clement V had begun the levying of first fruits in England upon the provisions which he reserved in the English Church to the Holy See.[7] Pope John XXII followed the example of his predecessor and reserved for his own use all the first fruits which might arise in the course of three years from these benefices.[8] In the year 1330-1331 we find that these expectative provisions had reached the number of ninety-five.[9] In 1338 Benedict XII despatched two cardinals to

[5] Sullivan, J., "Marsiglio of Padua and William of Ockam", in *American Historical Review*, II (1896-1897), 593-610.

[6] "The collation of the Imperial Crown by the Roman people, their deposition of the Pope and election of an anti-Pope in the person of the Minorite, Pietro da Corvara, were the practical results of the teaching of the 'Defensor Pacis'". Pastor, *op. cit.*, 81-82. As late as Henry VIII's day Cromwell is found paying translators and publishers to produce the works of Marsilius as part of the propaganda of the new policy pursued toward the papacy. Pollard, A. F., *Wolsey*, 369. New York, 1929.

[7] Cf. 93 of this study.

[8] Lingard–Belloc, *The History of England*, III, 254.

[9] Deeley, A., "Papal Provision and Royal Rights of Patronage in the

England in the interests of peace between that country and France. The rigor with which these representatives of the papacy pressed for procurations aroused a spirit of deep anger.[10] When five years later Clement VI provided benefices for two cardinals to the value of two thousand marks, the smouldering resentment of the barons came to a head.[11] The king had thus far ventured only mild protests against the abuses of the Holy See. The nobles therefore decided to take matters into their own hands.

In the parliament meeting in 1343 the lay barons introduced the petition which had been presented in 1307 at the Parliament of Carlisle, and using it as the basis of their legislation they enacted an ordinance which forbade any person under pain of forfeiture to bring or receive bulls, reservations, or other letters in England, or to accept or execute provisions contrary to the rights of the king and the liberties and welfare of the people. They directed that all such instruments and all persons bringing such into the country were to be seized wherever they might be found. All clerks and others who by virtue of such letters should presume to bring action against either the patrons of benefices or their presentees were to be arrested as offenders and submitted to the judgment of the king's council.[12] In the following year this measure was confirmed and the penalty of outlawry, perpetual imprisonment, or abjuration of the realm was laid down against those who should violate the provisions of the act of 1343. This applied as well to those who should venture to appeal to the Holy See from the king's court.[13]

In May of that year the barons placed a list of their grievances in the hands of Sir John Shoreditch and he proceeded with them to Avignon. The pope had them read before the assembled cardinals.[14] Both the pope and cardinals showed indignation at the charges laid upon the Holy See and Clement denied that he had

Early Fourteenth Century", in *English Historical Review*, XLIII (1928), 498, note.

[10] Capes, *A History of the English Church in the Fourteenth and Fifteenth Centuries*, 85.

[11] Hunt, W., *The English Church in the Middle Ages*, 200. London, 1899.

[12] *Rotuli Parliamentorum*, II, 144-145. London, 1832.

[13] *Ibid.*, II, 153.

[14] Murimuth, A., *Chronica*, 149, Rolls Series, London, 1889.

frequently put aliens into English benefices. In 1342 Edward III had shown a bit of force towards the papacy by annulling the provisions made by Clement VI in England. In the following year he again annulled the papal provisions.[15] In September, 1343 the king now followed the complaint of the barons by a letter to the pope against the abuses prevalent in England.[16] The replies to these protests which came from the pope were quite unsatisfactory. Clement disclaimed responsibility for the abuses and urged that the provisions made for his cardinals be turned over to them.[17] Moreover he remonstrated in 1344 against the recent enactments themselves, as well as against the assumed power of making laws regarding the reservations and provisions of churches.[18]

The abuses mentioned in the barons' petition continued to exist, however, and in 1345 papal envoys arrived in England, who demanded a continuance of all the privileges enjoyed by the papacy in that country.[19] When this demand was presented to Edward III he gave a general answer and promised to consult the barons. He dismissed the envoys with a mild warning that they should not infringe upon the rights of the crown.[20] Edward was not yet in a mood to move strongly against the papacy, for he was the recipient of frequent favors from the pope in the way of confirmation of his appointees to bishoprics, etc.[21]

The ire of the nobles, however, was only increased when they saw no sign of improvement in the abuses which they sought to correct. Therefore in 1346 there was introduced into parliament a petition which called for the expulsion of all the alien monks from England. The reasons given were that these monks lent their support to France in time of war, that the faith suffered by their presence in England, and deserving English clerics were deprived of rightful opportunities by the numbers of these foreigners in the English religious houses. It was replied, however, that since the alien monks

[15] Walsingham, *Historia Anglicana*, I, 254-255.

[16] *Ibid.*, I, 255.

[17] Murimuth, *op. cit.*, 149-152.

[18] Flanagan, Canon, *A History of the Church in England*, I, 560, London, 1857.

[19] Murimuth, *op. cit.*, 161.

[20] *Ibid.*, 161-162.

[21] Capes, *op. cit.*, 87.

were spiritual persons and were in their houses by institution, the king alone could expel them and not the parliament.[22] The king had already seized many of their benefices and lands in 1337 at the opening of the war with France.[23] Parliament did succeed nevertheless in having a provision passed that alien monks should not send letters beyond the sea or receive such from foreign ports without first showing these letters to the chancellor of the realm or wardens of the ports. This prohibition was made punishable by forfeiture of all possessions.[24]

In the following year, 1347, the barons returned to the subject of provisions, complaining that the petitions and ordinances had not checked the evils against which they were directed and urging that these be framed in a permanent statute of the realm. They reminded the king of what had formerly been said and done against these instruments of the Holy See and the evils resulting from their continuance.[25]

In the same year Pope Clement VI had succeeded in arranging a truce between the kings of England and France which was renewed for a period of almost six years.[26] It gave each party a breathing space in which to restore the finances and spirit of the peoples of both countries. This truce was brought about after the fall of Calais into English hands in August, 1347.

In the year following this last petition of the commons an event took place in England which was to change the complexion of the life of all on the island. On July 7th, 1348 the Black Death appeared at Dorset. This plague carried off nearly half the population of England before it was finally stamped out. The effects of this terrible disaster were far-reaching. It caused a discontinuance of the war for a time, and great social and economic changes ensued with the scarcity of men and of food which led gradually to the rise in prices.

In no sphere of life did the effects of the Black Death manifest

[22] New, *History of the Alien Priories in England to the Confiscation of Henry* V, 69-70.

[23] *Ibid.*, 65.

[24] *Ibid.*, 70.

[25] Ingram, T., *England and Rome*, 102-103. London, 1892.

[26] Walsingham, *op. cit.*, I, 271.

themselves more than in the life of the Church. The clerical order was severely hit. The country pastors and curates died honorably at their posts, but the scarcity of priests made it very difficult for the ministrations of religion to reach all. In the diocese of Norwich alone more than eight hundred parishes lost their pastors, eight parishes losing three of their pastors twice within one year. Of course the monasteries suffered likewise and in some instances whole monasteries became almost depopulated. The result of the plague upon ecclesiastical discipline was at first a relaxation of Church rules. Priests were so scarce that deacons were permitted to give Holy Communion, and faith supplied the place of Extreme Unction.[27]

The series of petitions which were introduced into parliament since 1343 had done little good to correct the abuses of papal exactions in England. Therefore in 1351 the parliament of that year decided that the only effective way to end this interference from the papacy was the enactment of a formal statute of the realm. It expressed its desires in the Statute of Provisors, passed in 1351.[28] This Statute was an enlargement of the Statute of Carlisle, passed in March of the last year of the reign of Edward I against the occupants of religious houses carrying out of England sums of money, loans, taxes, etc. to their foreign motherhouses. Moreover it put into statute form many of the ideas contained in the petition presented to the Parliament of Carlisle in 1307, which failed of enactment in that year. The new Statute contained a long list of grievances which parliament claimed had been troubling the realm for some time: the appointment of foreigners to English sees by the pope, the filling of benefices by the pope without recognition of the patrons' rights, the withdrawing of huge sums of money in the form of first fruits and many other profits to the papal court, with the consequent impoverishment of the kingdom, and lastly the urgent requests which the king had received on many occasions from the barons and commons of his realm to correct these abuses which, as his subjects emphasized, were ruining the state of religion in England.

The authors of the Statute proved themselves astute legalists, as

[27] Cf. Gasquet, F., *The Black Death*, Chapters IX and X. London, 1908.
[28] *Statutes of the Realm*, I, 316.

they used the powerful practice and weapon of precedent in drawing up this measure. In it the king was found to revert constantly to the laws and usages of his grandfather and other predecessors and claimed that he was within his rights in making the prohibitions contained in the decree. The Statute laid down the following restrictions upon the papal policy in England: all prelates, archbishops, bishops, abbots, and other elective benefice holders in England were henceforth to be elected and hold their benefices in the manner in which they were granted by the king's progenitors and founded by the ancestors of other lords (that is, they were to be filled by the patrons, not the pope); all prelates and other clerics who held such benefices of the king's or any lord's gift were to have their collations and presentments and fees free in the manner in which they were given them by the donor; in case provision was made to a benefice by the Holy See in disturbance of a provision already made, the king and the lords were to have and enjoy the collations to the archbishopric, bishopric, or whatever the dignity might be, during its voidance. This was the custom before free elections were granted and Edward III now endeavored to revert to its original status.[29] Several clauses repeated that when a benefice was declared vacant and the papacy interfered to disturb the free election to same or to collect the money during the vacancy, the king reserved to himself and to the patrons the right to collect these money payments and to name their own candidates to fill the vacancy.

Furthermore it was decreed in this Statute that if the patrons of the benefices did not present within a month after half a year's voidance, then the king should have thereof the presentments and collations as he had of others of his own patronage. In case the presentee of the king, of the patron, or of the bishops empowered to present, should be disturbed by provisors (that is, representatives of the Holy See) so that they might not have possession of such benefices, or that they in possession of such benefices were impeached, then such as disturbed the peace of these presentees (the papal provisors or procurators) should be brought before the king's court to answer for their actions. If they were convicted they were

[29] Lingard–Belloc, *op. cit.*, III, 261.

to be thrown into prison until they had paid a fine or ransom to the king at his will and given satisfaction to the party whom they had grieved. Lastly, such individuals were to give assurance that they would not for the future again attempt such disturbance of benefices, nor sue any process by them in the *Curia* or anywhere else for any such imprisonments or renunciations.

This Statute has been given in detail, for it is the summing up of all the grievances which had existed against the Holy See regarding benefices and vacant sees for several hundred years. It rested firmly upon tradition and precedent, and the minuteness of its detail will give an idea of how difficult it was to escape its demands, providing the articles laid down by the measure were strictly enforced. The Statute of Provisors was meant to cure the evils arising from the papal provision to English benefices, the filling of the livings of the English Church with foreign churchmen. If the various articles of this Statute were adhered to rigidly it would mean the end of the abuse which had crept into the relations between England and the papacy during the reign of Henry III. No more could the pope make wholesale provision to English ecclesiastical livings for his cardinals and the churchmen of the *Curia*. The rights once enjoyed by the king and the patrons of these benefices were now legally restored and they were given the right to provide and present to the livings within their possession. If the law had been enforced to the letter it would have gone a long way towards abolishing disputes and bad feeling over the filling of the vacant benefices. However, it was frequently evaded and the abuse continued in a more moderate form. It was because of a continuance of the evil that we find this measure confirmed in 1364 and reenacted in 1390.

The Statute of Provisors was followed in March of the next year by the Statute of Treasons, which declared that anyone purchasing a provision of abbeys, priories, monasteries, and other benefices in the papal *Curia* was without the king's protection and freedom, and it was granted for anyone to do with them as they would with enemies of the king and the realm. Immunity from punishment and impeachment was granted to those who detected individuals breaking the Statute of Provisors.[30] This clause was included

[30] *Statutes of the Realm*, I, 319.

within the general Statute of Treasons, so we can readily ascertain the intent which the parliament had in making such offences appear as serious as possible.

In September, 1353 parliament followed these two measures with another stroke at the papal power in England. It came in the form of the Statute of Praemunire.[31] This law declared that since many people had been drawn out of the realm to answer for divers causes in courts abroad, which things should all be heard within the king's courts, and since prejudice of the king, the crown, and the English people had resulted from the hearing of these cases in foreign courts, and the undoing and destruction of the common law had ensued—the king, in agreement with his council, decreed that all such cases being heard in foreign courts, which really pertained to the king's justice, must be stopped. Any person found drawing others out of the realm in plea, or going out himself, was to be given a warning of two months time, to be delivered to him in the place where the possessions in dispute or suit happened to be located. This warning was to be carried by the king's sheriff or minister and he was to summon the individual to appear before the king in person in order to answer for the contempt he had done the monarch. If such a one failed to appear on the day appointed he, along with his procurators, attorneys, executors, and notaries was to be put out of the king's protection from that day forth; their lands, goods, and chattels were to be forfeited to the crown, and their bodies wheresoever found were to be imprisoned and ransomed only at the king's will, and upon the same a writ should be made to take them by their bodies and to seize their lands, goods, and possessions into the king's hands. Providing it was found that they escaped or could not be apprehended, they were condemned to be outlawed.

The gist of this entire Statute was naturally levelled at those who were called out of the realm to answer for certain cases in the court of the pope, though it did not mention that tribunal explicitly; it was likewise directed against those who voluntarily left England to plead their cases before a foreign court in defiance of the king's courts of law. By this means the parliament

[31] *Ibid.*, I, 329.

sought to check the great number of cases which yearly were taken out of England for settlement in the court of the papacy. Frequently when disputes arose between the English lay officials and a papal procurator, for example, the latter appealed his case to the *Curia* and gained a favorable decision. In this manner many decisions were rendered by the papal tribunal which went counter to the interests of the English courts. The *Curia* generally declared in favor of the papal agent or churchman against the English judges, and thus the English officials were led to believe that not only was justice lacking to their cause in the courts of the Holy See, but that the king's courts lost jurisdiction and revenue which rightfully belonged to them by this process. However, the Statute itself stated nothing new, for the appeals at which it aimed had been prohibited from time to time in England for half a century. It did nevertheless declare penalties for those who failed to appear before the king's court when summoned on charges of this kind, in other words against fugitives from justice.[32]

This Statute of Praemunire was but the foundation for a second act of the same name which followed in the reign of Richard II, and which used this present law as its model.[33] The Statute of 1353 calls to our attention some of the evils existing in the relations between the two powers in the later Middle Ages. The action of the Holy See in calling suits to the *Curia* for decisions

[32] "In fine the Statute of Praemunire of 1353 provided new machinery for summons in actions against those who appealed outside the realm or elsewhere in matters of royal cognizance. It declared a new penalty for non-appearance on that summons, the penalty of forfeiture. It declared for continued default a penalty previously imposed, the penalty of outlawry. The form of summons and the penalties were applied particularly to fugitives from justice. It did not declare penalties against those who came and were convicted. Penalties against the convicted were agreed upon in the parliament in which the Statute of Praemunire was made; they were forfeiture and imprisonment. They do not, however, appear in the Statute itself". Graves, E., "The Legal Significance of the State of Praemunire of 1353", in *Haskins Anniversary Essays*, 79-80.

[33] Waugh, W., "The Great Statute of Praemunire", in *English Historical Review*, XXXVII (1922), 173-205.

had overstepped the bounds more than once.[34] The papacy did not take formal cognizance of these Statutes until 1391 when Pope Boniface IX (1389-1404) solemnly annulled them.[35] It was not until after the Council of Constance that these anti-papal laws were again the subject of serious remonstrance from Rome, when Pope Martin V (1417-1431) addressed himself to them with vigor.[36]

Meanwhile Edward succeeded in his struggle with the French king and in 1360 he received full sovereignty over Aquitaine, Gascony, Guienne, Poitou, and Saintonge. He also gave up his claims to the Duchy of Normandy and to the French throne.[37]

Since the Statutes described above were often evaded and abuses continued in England, we find parliament making another effort in 1364 to stem the tide of papal aggression by reaffirming all the former Statutes on the subject of appeals to the Holy See. The penalties of the first Statute of Praemunire were extended to all persons who had procured, or should procure, personal citations to plead in a foreign court, or those who had obtained, or should obtain, in a foreign court any ecclesiastical benefices within the realm of England. In the same punishment were included all maintainers, concealers, and abettors of those pleading in a foreign court.[38] The clerical order would give their unqualified consent to neither this Statute nor that of Provisors in 1351. They feared their assent to such measures might injure the state of the Church in England.[39]

When Pope Urban V (1362-1370), who was at this time engaged in a war with the Visconti of Milan, grew impatient because of the indifference of the English kings to the arrears of thirty-three years in the payment of the annual tribute to the papacy, he demanded payment of England and threatened the king if he

[34] Stubbs, W., *Constitutional History of England*, III, 361-363. Oxford, 1887-1891.

[35] Waugh, *op. cit.*, 189.

[36] *Ibid.*, 190.

[37] Cf. Reich, *Documents Illustrating Mediaeval and Modern History*, 502-506, for terms of treaty.

[38] *Statutes of the Realm*, I, 386.

[39] Stubbs, *op. cit.*, II, 628-629.

did not pay.[40] Edward submitted this demand of Pope Urban to his parliament, meeting in 1366. Both orders of the state returned the verdict that King John had had no right to place England under the pope's vassalage; that it was an illegal procedure entered into without the consent and accord of the people, and that therefore the fees desired by the pope were all illegal and the king need not pay them.[41] Thus did the English parliament repudiate the agreement entered into between King John and Pope Innocent III in 1213, that the English realm should pay one thousand marks yearly to the Holy See as a tribute. It goes without saying that the practice of tribute from England fell into desuetude after this declaration of both the clerical and lay elements of the kingdom. Eight years later in 1374 a similar refusal of tribute was given in the Parliament of Westminster when Edward III presented a letter from Pope Gregory XI (1370-1378).[42]

From this time to the end of Edward III's reign the records of parliament contain many expressions of an anti-foreign and anti-papal sentiment. Although the alien priories had been restored in 1361 they were again seized in 1369 upon the renewal of war with France. In that same year the commons petitioned that some action should be taken to prevent the alien religious resident in England from betraying the secrets of the realm.[43] In 1373, 1375, and 1376, parliament again returned to the subject of the alien religious, demanding that they be banished because of suits which they entered in the court of the pope to recover their pensions from subject priories in England, because of the scarcity of livings for English monks caused by the great number of foreigners, the spying of these foreigners, and further because England would gain money for the French war by their banishment. It was not until 1377 that parliament met with complete success in its attack upon the alien priories. In this year all alien monks, with the exception of members of conventual priories and those who held a life title to their offices, were banished. Those

[40] *Rotuli Parliamentorum*, II, 289-290.

[41] Stubbs, *op. cit.*, II, 435.

[42] *Eulogium Historiarum sive Temporis*, III, 337-339, Rolls Series, London, 1858-1863.

[43] New, *op. cit.*, 75.

exempt from banishment, however, must be alien religious of good standing, loyal to the realm and free from the suspicion of spying. The banished were compelled to leave England by the port of Dover where they were searched to see that they took nothing with them save the necessary expenses.[44]

The anti-clerical party in parliament manifested its feeling in a new form in 1371. In that year a petition was introduced which directed its aim at the ecclesiastics who held the high offices of the kingdom. Parliament petitioned that the offices of chancellor, treasurer, baron of the exchequer, clerk of the privy seal, etc. be given in the future only to laymen. Edward III conceded the request of parliament and the churchmen resigned the offices of chancellor and treasurer.[45] This ruling was not strictly observed, however, for we find ecclesiastics holding high offices after this time. The laymen did not prove as efficient as the clerics in these positions, due in large measure to a lack of experience in handling the high offices of the realm. Sir Robert Bourchier was the first layman appointed to the chancellorship, and he held his office but for the brief period of a year, 1340-1341.[46] Sir Robert Parving, likewise a layman, held the chancellorship for nearly two years (1341-1343).

Two years after the petition mentioned above was presented in parliament, the commons introduced another petition which was addressed to the king in complaint of papal provisions and of the demands for first fruits by the papacy. Edward III temporized with the petitioners by stating that his envoys were treating of these subjects with the pope, and he would await the outcome of the negotiations.[47]

Edward's embassy to the Holy See resulted in the calling of a conference to be held at Bruges in the latter part of 1374. As a

[44] *Ibid.*, 75-76.

[45] Tout, *The History of England from the Accession of Henry III to the Death of Edward III, 1216-1377*, 433.

[46] Malden, H., *English Records, A Companion to the History of England*, 62. In consequence of the petition of the commons in 1371 we find Sir Robert Thorpe chancellor for fifteen months (1371-1372), and Sir John Knyvet, who held the office for four years and a half (1372-1377).

[47] *Rotuli Parliamentorum*, II, 320.

consequence of this conference Gregory XI and Edward agreed to the following points in adjustment of the disputes which had arisen between them concerning papal abuses in England. The king agreed to remit all penalties enacted by statutes against provisors. The pope consented to revoke all reservations of benefices in England which had been made by himself or his predecessors, but which had not yet taken effect. He likewise confirmed all the presentees of the king in actual possession of their benefices without requiring from them the payment of first fruits. Moreover Gregory imposed silence upon all the provisors who had cases pending in the *Curia,* and he empowered the English bishops to visit benefices which had been granted to cardinals, and to reserve, in defiance of prohibition or appeal, as much of the income from these livings as they thought necessary for the repair of the churches and other buildings.[48] In September, 1375 Gregory followed this agreement by confirming the ecclesiastical appointments in England made by the presentation or collation of King Edward.[49]

The immediate results of this understanding between the papacy and England were not, however, far-reaching, for they were temporary in application. In 1376 the parliament again entered a strong complaint against the taxes of the Holy See, the luxury enjoyed by the papal collectors in England, and the rich livings which were given out to the cardinals who resided at the papal court. They stated that sums equal to twenty thousand marks were yearly transported to the pope, and a like sum to the cardinals.[50] Edward nevertheless turned a deaf ear to these complaints.

The pope found it difficult at this particular time to live up to the promises of his agreement with the king of England because of troubles in the papal states. In July, 1375 the republic of Florence had risen in revolt against the French masters whom the pope had placed over the states of the Church. Florence carried with it Montefiascone, Viterbo, Citta di Castello, Narni, Perugia, Assisi, Ravenna, Ancona, Spoleto, Ascoli, and the Romagna before the spring of 1376; in fact practically all the papal states had

[48] Rymer, *op. cit.*, VII, 83-87.

[49] *Ibid.*, III, 1037.

[50] Hart, *Ecclesiastical Records in England, Ireland, and Scotland to the Reformation,* 15.

followed Florence into rebellion against Pope Gregory.[51] The revolt was a clear indication of the evils growing out of the Avignon residence of the papacy. The presence of Gregory's French appointees in Italy aroused a nationalistic spirit against the foreign masters. Although the pope excommunicated the citizens of Florence and laid an interdict over the city the warfare continued and the Florentines refused to be quieted by the ecclesiastical censures. At length Gregory was persuaded to return to Rome as the only possible solution to end the ravages which were being perpetrated upon the possessions of the Holy See. In January, 1377 he entered Rome. The period of the French captivity had been ended.[52] It was not until March, 1378 that negotiations were entered into with the Florentines, and these conferences were hardly begun before Gregory XI was dead. The results of this devastating warfare were carried over into the following years of the Great Schism.

Despite the hardships under which the papacy was laboring at this moment, Edward III was able to announce in 1377, his jubilee year, that the pope had promised to abstain from reservations, from providing to bishoprics until sufficient time had elapsed for him to learn the results of the capitular election to the sees; he also announced that the pope had promised to respect the elective rights of other capitular bodies, to diminish the number of foreign churchmen in England, and to see to it that the burden of first fruits did not press too heavily upon the clergy. Lastly the pontiff gave his promise that he would be moderate in the granting of expectations and provisions.[53] This announcement ended the formal negotiations between Gregory and Edward upon the subjects which had engaged them in dispute.

[51] "Since the days of Frederick II the Papacy had never been in such imminent peril, for it now seemed on the point of losing its historical position in Italy, and even of being permanently banished by the Italians themselves to Avignon." Pastor, *op. cit.*, I, 109.

[52] "The conclusion of the unnatural exile of the Papacy in France was a turning point in the history of the Church, as well as in that of Rome. The spell with which Philip the Fair had bound the ecclesiastical power was broken; a French Pope had set himself free." *Ibid.*, I, 111.

[53] Hunt, *op. cit.*, 211.

The closing years of Edward III's reign were taken up with the truce which Gregory XI was able to bring about between Edward and the French king in June, 1375 at Bruges,[64] the revolts of the barons against John of Gaunt, who had succeeded in grasping the reins of government with Edward's decline in power, and the king's final downfall. Edward III died in June, 1377.

With Edward's death there comes to an end the period of anti-papal legislation which we purposed to investigate. The fifty years which mark the rule of Edward III form the culminating era of this inquiry. Distressed by the indifference of the king to the petitions against papal abuses which were introduced into that body almost yearly from 1343 on, parliament at length took matters into its own hands and passed the Statutes of Provisors and Praemunire, which delivered a severe and lasting stroke at the exercise of papal interference in English affairs. Not only did the commons manifest their resentment against the Holy See in matters concerning provisions to English benefices by the pope and appeals being taken out of the kingdom to the papal court, but their displeasure also expressed itself in their refusal to pay the annual tribute to the papacy, in their petition against the ecclesiastics holding the high offices of the realm, and in the readiness with which they prosecuted the confiscation of the alien priories and the banishment of the alien religious. It was indeed an age of growing nationalism, an age in which all the pent-up resentment and anger against foreign interference and encroachment upon English rights found voice in the proceedings of the legislative body of the kingdom.

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[64] Tout, *op. cit.*, 418.

CONCLUSION

With the death of King Edward III we have reached the end of our narrative. It is true that there was anti-papal legislation passed in England between the years following Edward's death and the Protestant Revolt, but that legislation was for the most part a repetition, a confirming of the measures which we have already reviewed. During the reign of Richard II (1377-1399) we find the Second Statutes of Provisors in 1390,[1] and of Praemunire in 1393.[2] These acts were little more than enlargements upon the laws of the same name enacted in the days of Edward III. The anti-papal statutes of Edward's reign were not strictly enforced, and the frequent evasions of their stipulations brought about a second series of these measures.

In the reign of Richard II we also witness the rise of Wycliffe and the Lollard Movement, which were indications of anti-papal feeling amongst the lower classes. Wycliffe had given expression to his novel doctrines on the subject of the wealth of the clerical order and his exacting rule for the life of the clergy before the end of Edward's rule, but it was during the time of Richard II and after, that the full effect and influence of his teaching were most profoundly felt.[3] As a reaction to Wycliffe and the Lollard Movement there was passed in 1401 an act against heretics and heretical preaching in the days of Henry IV (1399-1413).[4] This act was directed too at the danger of civil revolt which lay within such a movement. Under the rule of Henry V (1413-1422) there took place the final confiscation of the alien priories in 1414.[5]

Aside, however, from the few acts that have been mentioned the period from the close of the fourteenth century to the opening of the second decade of the sixteenth century was generally free from

[1] *Statutes of the Realm*, II, 68.
[2] *Ibid.*, II, 84.
[3] Marti, *Economic Causes of the Reformation in England*, 99-107.
[4] *Statutes of the Realm*, II, 125.
[5] Adams and Stephens, *Select Documents of English Constitutional History*, 180-181.

legislation directed against the jurisdiction of the Holy See in England. The entire fifteenth century was a period of political disturbance due to the long minority of Henry VI (1422-1461), to the Wars of the Roses, and to a continuation of the Hundred Years' War with France. It was a time in which there was very little of note to be recorded in the ecclesiastical history of the country.

Such an uneventful period in the history of the relations between England and Rome is in no way remarkable when we reflect that the English kings had no sooner concluded the interminable war with France in 1453 than the Wars of the Roses, one of the most devastating civil strifes in the history of England, was upon them. From 1450 until the accession of Henry VII in 1485, who united the two rival houses of Lancaster and York by his marriage to Elizabeth of York, England passed through an internecine conflict which was ultimately to destroy her powerful feudal classes and to make the king supreme.

After Henry VII had established his rule he could have taken action against the papacy had he seen fit. But what would that action have been? There was very little left for English monarchs to desire in the way of anti-papal laws or statutes. The foundation for a restriction of Rome's influence in the affairs of the English realm had been laid by Henry's predecessors and that monarch, secure in his absolute power, felt no ill effects from papal interference.

Thus long before Henry VIII became king of England Rome was no longer a serious factor in English political affairs. No papal legate could enter England without the permission of the king, no papal bull or letter could be received, no plea could be taken out of England to the Roman Court, nor any decision be given from the latter court on an English case, without the monarch's consent. Provisions to English sees and benefices were in the jurisdiction of the king's pleasure. Furthermore no money could leave England for Rome without the express permission of the king. It would be idle of course to contend that these measures, which had placed a restraint upon the influence of the papacy in England, were strictly adhered to and observed. There were constant violations of their articles, even with the knowledge of the king. But so long as these violations did not become too numerous or too abusive the king fre-

quently tolerated them. The point to be made here is the legal significance of these anti-papal statutes. They were on the statute books of England, written into the permanent and fixed law of the land, ready to be called forth at any time when Rome's hand appeared to infringe upon the rights of the king and the nation. It is this feature of the anti-papal measures which makes them important. They served as valuable precedents for any action which a future king or parliament should see fit to take against the papacy. They were a part of the law of the land, which could be evoked whenever an interference was threatened in English political matters by the jurisdiction of the Holy See.

Consequently when Henry VIII (1509-1547) ascended the throne of England important precedents for many of his later actions against Rome had already been established for him. Thus when the conflict, which arose over his divorce, came into prominence and Henry began to show an unfriendly attitude toward the papacy in the Acts against the Annates in 1532;[6] against Appeals in 1533,[7] Ecclesiastical Appointments in 1534,[8] and against the Papal Dispensations and Payment of Peter's Pence,[9] he was not enacting legislation which was essentially new in character. Each one of the acts mentioned above had been passed in a less embracing form years before. Henry merely elaborated upon them and made their obligations more explicit and binding. We have seen how Edward III legislated against the first fruits, the payment of Peter's pence, and appeals to Rome. Likewise we witnessed the great struggle between Edward's predecessors, William II and Henry I, and Archbishop Anselm over the ecclesiastical appointments, a struggle which won from Rome the famous compromise.[11] What then was new about Henry VIII's legislation?

It was in the Act of Supremacy in 1534 that Henry VIII assumed an attitude toward the Holy See which none of his predecessors had ever taken.[12] In that act the king declared that

[6] *Statutes of the Realm*, III, 385.
[7] *Ibid.*, III, 427.
[8] *Ibid.*, III, 462.
[9] Gee and Hardy, *Documents Illustrative of English Church History*, 209-232.
[11] Wilkins, *Concilia*, I, 386.
[12] *Statutes of the Realm*, III, 492.

henceforth the English monarch was to be known and respected as the supreme head of the Church of England. No king of England before Henry had ever thought of himself in the light of spiritual head of the English Church. While they enjoyed many of the rights which might be thought to go with such a position, yet they were unanimous in their recognition of the pope as the spiritual head of the Church. In this act therefore Henry did take an initial step, and by this measure he did break entirely the thread of union which existed between England and the Holy See.

Apart from the Act of Supremacy, however, it is difficult to find wherein Henry's action against Rome was anything but the logical conclusion and outcome of the legal rights contained in the legislation and prerogatives of the kings of England that had gradually accumulated in the course of almost five hundred years. Essentially he invaded no privilege or right not granted to him by the legal statutes and laws of the realm. As we mentioned above, it would seem that he merely assumed a title and acted rationally in accordance with that title. While the rulers before Henry VIII had never posed as the supreme head of the English Church, yet legally speaking, they had claimed, especially in financial matters, many of the rights and privileges which would naturally fall to such a head. In emphasizing this point needless to say we are not endeavoring to make out a case for the action of Henry VIII against the Catholic Church. It is merely stated that his actions were in part made possible by the legal precedents left for him by the kings who had ruled England before his day.

We have had in mind to trace the anti-papal tendency in English legislation between the years of the Norman Conquest and the end of Edward III's reign, when the legislation attendant upon this trend and sentiment against Rome may be said to have received a secure and lasting foundation for the action later put forth by King Henry VIII. In the first portion of the story Pope Gregory VII was found granting new and strange privileges to William the Conqueror; some years later there ensued the long and bitter struggle which took place between the Conqueror's sons and their venerable primate, Anselm, on the question of investitures, which ended in a triumph for the temporal power. The ecclesiastical power accepted a compromise which held together only the tattered shreds of a

principle. In the latter half of the twelfth century there followed the sad conflict which ended with the murder of Thomas a Becket and the disgrace of the English king. The next outstanding episode of the story found England at the feet of the sovereign pontiff in the reign of King John, at a time when the papacy had risen in strength and was enjoying a brief moment of supreme power throughout Europe. But like all powers which embrace too large a jurisdiction, the prestige of the Holy See decreased with the onslaught of the imperial forces. This fatal war forced Rome to levy heavy and impossible exactions upon the English realm in the days of Henry III. The inevitable reaction followed from this intense foreign interference with English affairs. In the latter half of the fourteenth century there came the declaration of independence from Roman abuses. In the years of the three Edwards, when papal exactions continued in England and the popes were the captives of the French monarchy, England established by law independence of action from the interference of the Roman pontiffs, whom she had come to look upon in this age as the allies of her rival, France. With the Statutes of Provisors and Praemunire the anti-papal sentiment and feeling, which had been growing in England since the early part of the thirteenth century, crystallized and made itself permanent in the laws of the realm. However, this legislation was destined to remain dormant during the fifteenth century owing especially to the internal political strife and chaos which marked this epoch.

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